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PROCEEDINGS

OF THE

TWENTY-SIXTH ANNUAL MEETING

OF THE

MISSISSIPPI STATE BAR ASSOCIATION

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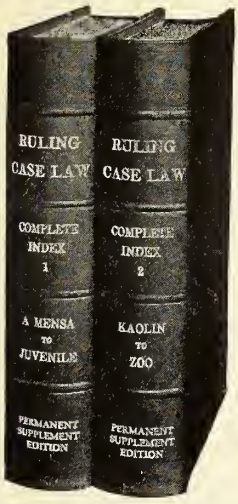

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JOURNAL of the MISSISSIPPI STATE BAR ASSOCIATION

VOL. IV AUGUST, 1931 No. 1

HOPES OF THE NEW ADMINISTRATION

You have asked that I give you a short statement expressing the hopes of the administration of the Mississippi Bar Association for the present year.

With the permission of the Journal, I desire to furnish an article for your next issue on the Bar Unification Plan recently recommended by the Bar Association. In this connection, it is sufficient to say that in my judgment, and that of a great many others with whom I have consulted, it is a wise course for the lawyers of the State to concentrate their efforts during the present year on the work of having a bar unification legislation adopted. The reasons for recommending this course will appear, I hope, in the article which I will submit.

In a certain sense, I believe that the constructive program of the Bar Association depends upon the adoption of this scheme of bar organization. It will give the lawyers of the State the necessary status before the Legislature, and clothe them with the authority necessary to the proper functioning of the bar of the State; and will produce, I hope, a keen realization on the part of the members of the profession that their functions are largely governmental, that they are essential instrumentalities in the work of the administration of justice, and that this consideration is paramount.

The question of bar unification is one in which every lawyer in the State is interested, and the administration of the Bar Association desires to present the question to every lawyer in the State, and to every member of the Legislature, hoping that they will be persuaded, as we are, that the adoption of the plan is for the promotion of the public good.

Very sincerely yours,

W. W. VENABLE,

President, Mississippi State Bar Association.

WWV:M

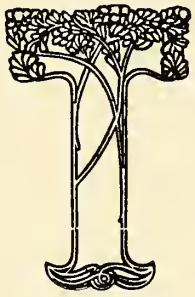
PROCEEDINGS

OF THE

Twenty-Sixth Annual Meeting

OF THE

Mississippi State Bar Association



HELD AT

MERIDIAN, MISSISSIPPI

April 29th and 30th

1 9 3 1

PROCEEDINGS OF THE TWENTY-SIXTH ANNUAL MEETING OF THE MISSISSIPPI STATE BAR ASSOCIATION

BY PRESIDENT BUTLER: The Association will come to order, and I will ask Mr. Amis to take charge of the program.

BY MR. MARSHALL AMIS: On behalf of the Meridian Bar Association, I open the meeting, and desire to express my appreciation for the crowd that we have and our welcome to the visiting members of the Mississippi State Bar Association. We will open the meeting with prayer by Bishop William Mercer Green.

BY BISHOP GREEN: Our Heavenly Father, who hast revealed Thyself to us as the God of law and the God of Love, we invoke Thy blessings upon this assembly of Thy servants of the Lord. May Thy Holy Spirit preside over their deliberations and guide them into the paths of justice, of equity, of truth and of wisdom. Grant them such a sense of Thy presence that they may render, as in Thy sight, a service which may find favor with Thee, who art the Judge of all the Earth; grant them to know that they are Thy ministers; and give them an ever clearer vision of the ideals of the noble profession to which Thou hast called them; put away from them all that may hinder them in the pursuit of ideal justice, and open their eyes to see the spirit of law as the Spirit of God; save them in their counsel from all error, ignorance, pride and prejudice, and from whatsoever else that may obstruct the flow of unselfish, generous devotion to the common ideals of their high calling.

We pray that through them we, Thy people, may be renewed to a deeper sense of the sanctity and dignity of the courts and the laws which they administer. Vouchafe that they may be their best interpreters and exemplars, that we may honor them, knowing whose ministers they are.

Bind all of Thy people together in a common cause of honesty, and justice, and righteousness, and give us strength

to turn back the tide of lawlessness that is threatening the foundations of our institutions and the roots of the liberties of a dearly bought civilization.

Teach us to know that liberty and law are twin-born; that peace blossoms only in a garden of righteousness; that prosperity survives only in the soil of honesty and justice; and that happiness finds only a home where love rules.

Grant that the courts of the land may be the symbol of Thy dominion, as the laws of the land should be the expression of Thy will; and so guide and rule us that peace and happiness, truth and justice, religion and piety, may be established among us for all generations.

We thank Thee for the fine ideals and high standard of ethics which Thou hast installed as a guide for those who enter the legal profession; we thank Thee for the long line of noble, distinguished men who through the years on the Bench and at the Bar have sown honor for themselves and respect and prestige for our beloved State.

We thank Thee for the noble host of worthy men now living who emulated the ideals set for them; vouchafe for them the sustaining strength of Thy Spirit. Throw Thy loving protection around those who have gathered here; give them safe lodging; protect the loved ones absent from them, and bring them in safety to their homes again; may the fruits of their fellowship here and of their counsels be such as may be for their good, and to the glory and the praise of Thy Holy name.

We ask all in the name and for the sake of Thy Son, our Savior, Jesus Christ. Amen.

BY MR. AMIS: We will now have a vocal solo by Mrs. Garland Lyell, of Jackson, accompanied by Miss Eunice Harris.

(Mrs. Lyell here sang.)

BY MR. AMIS: Hon. W. H. Owens, Mayor of the City of Meridian, will make an address of welcome.

BY MAYOR W. H. OWENS: Mr. President, Members of the Bar Association, Ladies and Gentlemen: Meridian is glad to have you come and meet with us. Glad—yes, just as glad as a Mississippi farmer would be to see fifty cent cotton; as glad as a rich young bachelor would be to see a blushing young maid. And your custom of delivering the keys of the city will not do, for our doors are not locked, and with open arms we receive you.

And now, on behalf of 35,000 of the best people on earth, I want to welcome you, and hope that your stay in our city will be profitable to you, and to the profession you represent. (Applause.)

BY MR. AMIS: On behalf of the Meridian Bar Association, Hon. A. S. Bozeman will deliver the address of welcome.

BY MR. BOZEMAN: Mr. President, Members of the State Bar Association and your Wives, our Visitors: The Meridian Bar Association has done me the honor to give me the privilege to assure you of the happy welcome that you have from them. Of course, you need no assurance of such a welcome, because of the fact that you are here at our earnest invitation. We only have the privilege of entertaining the State Bar Association here about once every ten years. That is all too seldom for us. We wish very much that you would make this your permanent place of meeting, and would come to Meridian every year.

I realize the fact that a message of this kind is one that can best be said with flowers, and I have been rather tempted, knowing lawyers like things that are beautiful, as well as sensible, to try that; but I have a good advisor, about my speech-making at least, and her advice is to always make it snappy, don't take any detours; say it and sit down.

And so, without flowers, and without poetry, and without jokes of any kind, I am here simply to deliver to you the sincere welcome from the Meridian Bar Association. Your stay with us is going to be all too short. Every member of this Association is anxious to do anything he possibly can to make your stay with us pleasant, and to make the meeting of this Association a delightful one, and we are yours to command.

Whatever the layman may think about lawyers, we lawyers appreciate each other; we enjoy the contact one with another; we know our own problems and our own difficulties, and so, to us, the local Bar Association, it is a pleasure to have you here, and so to you, our in-laws, our brothers-in-law, sisters-in-law, the representatives of our mothers-in-law, if there be any here, we extend to you a most hearty welcome, and trust when you leave us at the end of this session, you will have had a pleasant impression of our town. (Applause.)

BY MR. AMIS: I now have the pleasure of introducing the Honorable George Butler, President of the Mississippi State Bar Association, and will turn the meeting over to him.

BY PRESIDENT BUTLER: Members of the Bar Association, Ladies and Gentlemen: Some of you may have gotten hold of the first issue of the program, which is not quite complete, in that inadvertently the name of Mr.

Thompson McClelland, of the West Point Bar, who will now respond to the addresses of welcome, was omitted. That has been corrected, and those programs are now being distributed.

I take pleasure in presenting Honorable Thomas McClelland, who will now respond to the address of welcome.

BY MR. McCLELLAND: Mr. President, Gentlemen of the Committee, Honored Guests, Ladies and Gentlemen: It came quite as a surprise to me that the President of the Mississippi State Bar Association should select one of so limited experience on occasions of this kind to represent the Bar Association in accepting with appreciation the hearty welcome which has been extended to us by the representatives of Meridian. We have already, the members of the Bar Association, shown our appreciation of their invitation by accepting. We trust we shall continue to show our appreciation of this invitation by enjoying to the fullest extent the deliberations and the associations which shall take place during the next two days.

The Bar of the State has been subjected during the past few months to some very severe criticism, and sometimes we might marvel that any community would want to invite us to come and visit with them. But we come to assure you that all of the criticism is not justified, and that we, as representatives of the Bar, want to assure the people of the State of Mississippi and the various communities that we are ready and willing to shoulder our part of the criticism and to make an attempt to right the situation which has developed in our State.

Mississippi is facing some very serious problems at this time, and I as one member of the Bar, am proud of the part that our profession has played in the history of our great State. I as one member of the Bar, believe and am confident that in the future the Bar will continue to lead and take part in all the movements which will bring peace out of chaos. While we may confine our deliberations largely to matters which pertain more particularly to the lawyers, there will be other matters of general concern to the people of Mississippi which will be taken up at our meetings, and I feel sure that the deliberations of this Association will redound to the best interests of the State of Mississippi; and we hope that our stay here will not be too selfish, but that you by attending our meetings will have some benefit from our having been with you.

Again, I want to say to you that we appreciate the many manifestations of welcome on your part. (Applause.)

BY PRESIDENT BUTLER: The next on the program

is a quartette by Mesdames Lee Irby and O. P. Donald; and Messrs. Aubert C. Dunn and Lee Tatum; accompanied by Miss Eunice Harris.

(The Quartette here sang.)

BY PRESIDENT BUTLER: Ladies and Gentlemen, I now take pleasure in introducing Honorable R. E. Wilbourn, of the Meridian Bar, who will introduce our next speaker.

BY MR. WILBOURN: Mr. President, Honored Guests, Members of the Mississippi State Bar Association, Ladies and Gentlemen: The Mississippi State Bar Association is both honored and fortunate to have as its guest on this occasion a native Mississippian, who has achieved high honor and distinction, and who has rendered conspicuous service throughout the World.

Our guest was born on a farm in Pike County, Mississippi; he worked his way through the A. and M. College at Starkville, Mississippi; there are some in this audience who knew him when he was a student in that great institution. Subsequently thereto he has risen high in the esteem of his fellowmen. He has been the James Hazen Hyde lecturer in the French universities; he has lectured in the University of Calcutta, in Calcutta, India; he has lectured at the Hague Academy of International Studies, International Law; he has been professor in the Institute for Higher International Studies, in Geneva; he was the visiting professor at the various French and English Universities and of Canada; he holds Honorary Degrees from the University of Mines, France; from the University of Calcutta; and from Oberlin and Cumberland Universities in the United States; and he is the Chevalier of the French Legion of Honor. He has been honored by being elected in 1924 as the President of the American Political Science Association; he is at the present time Professor of Political Science in the University of Illinois. He is a member of various foreign Literary Clubs, has written quite a large number of books, and by virtue of his distinction as an author is a member of the Authors' Club of London. In connection with the late Henry Cabot Lodge, he wrote a History of the United States of America in four volumes, which has taken great rank among the histories of our country; and he has in many ways manifested the high character, splendid mentality, that has forged him to the front among his fellowmen. It is a matter of pride to Mississippians that one of her native sons has so greatly achieved in the world of letters, and it is with distinct pleasure that we welcome him back to our midst.

The members of the Mississippi State Bar, and all law-

yers, are deeply and keenly interested in the subjects which have been studied by him, and on which he has thrown so much light in the years of his past and eventful life. I am sure we all look forward with great anticipation and pleasure to a very thoughtful and constructive and inspiring address from our distinguished visitor.

It is with great pleasure, my friends, that I now introduce to you Doctor James Wilford Garner.

BY MR. GARNER: Mr. President, Members of the Bar Association of Mississippi, Ladies and Gentlemen: I confess that I am deeply touched by the very kind and over-generous remarks of the gentleman who has introduced me. I only wish I were worthy of what he has been so kind as to say. As I sat in my chair and listened to the things which he re-counted, I could not avoid feeling a bit like a certain homely girl who upon being told by her sweetheart that she was beautiful, fled to her closet and thanked the Lord that Love is blind. (Applause.)

I greatly appreciate the honor of being permitted to speak to this Annual Meeting of the Bar Association of Mississippi, my native State. The Bar of this State has always enjoyed a high reputation for ability and learning. As I sat here this morning my mind went back to the great names of men like William Yerger, Wiley P. Harris, Amos Johnston, J. A. P. Campbell, L. Q. C. Lamar, James Z. George, and others, to mention only a few of the great jurists of this commonwealth who have now passed on.

I am none the less appreciative of this honor when I know that I was not the first choice of your program committee. When George Butler called me up by telephone and asked me to speak here, in his innocence and in his characteristically frank manner, he stated that he was disappointed in not being able to get another man. I assured him that I should consider it an honor to receive an invitation to speak to this body, even though it were a second or a third choice. (Applause.) I always sympathize with chairmen of program committees who do their best to get a star of the magnitude, and I am reminded of the story of a colored Methodist preacher who wrote to his District Superintendent a letter like this: "Please send us a Bishop down here to preach next Sunday, and if you haven't one of them, please send us a Sliding Elder, and if you haven't one of them, send us a Stationary Preacher, and if you can't spare him, send us a Locus Preacher, and if you haven't any of them, send us a Exhauster." Well, if George Butler has failed to send you a Bishop, it is not his fault that you have to listen to an "Exhauster."

When he asked me to speak at this meeting, he told me I could choose my own subject and, if I recall correctly, he never intimated that there would be any limitation on the time at my disposal, and he did not even do what the President of Yale University recently did when a distinguished theologian came

there to preach on Sunday afternoon and he asked the President how long he would be permitted to speak. The President said, "Speak as long as you wish, but I ought to tell you that we have a tradition at Yale, that there are no conversions after the first twenty minutes."

Now, I hope I have not missed the mark too far when I have chosen to speak on a subject in which my heart is to be found. It is a subject which is of vital interest to our country, and it is one the decision of which, it begins to look, as if the American people themselves will have to make at the ballot box; that is the question as to whether our country will support the Permanent Court of International Justice, or whether it will continue to remain outside and content itself by indulging in professions of love of peace and a desire to contribute our part.

Ladies and gentlemen, for more than five hundred years our jurists and humanitarians have dreamed of a great World Court, to which the nations of the earth might take their disputes for settlement according to the orderly processes of law and justice, exactly as they settle their domestic controversies.

When the doors of the Permanent Court of International Justice were opened at the Hague, in January, 1922, this world dream of the ages was realized, and it should be a matter of pride to every American citizen who loves the good name and reputation of his country to know that the realization of that dream was the result in large part of fruition of American effort and American idealism.

As long ago as 1899, when the first peace conference met at the Hague, the American delegates to that conference carried with them instructions from a Republican President, signed by a Republican Secretary of State, urging that delegation to do everything in its power to bring about the creation of an international court of justice; and those instructions were repeated seven years later, in 1907, instructions which likewise were given by a Republican President and signed by a Republican Secretary of State. I may say that at both of those conferences the American delegation alone of all the delegates had instructions to use their efforts to bring about the establishment of such a court.

I need hardly say to this audience that at both of those conferences our delegates did their utmost to bring about the fulfillment of those instructions.

Now, what has happened? Nine years have passed since the Permanent Court of International Justice began to function at the Hague. Normally, the United States should have been the first of the nations to become a member of that court. (Applause.) The rest of the world expected it. Our traditions, our professions, our whole past, indicated that America would become a part of this court promptly and with enthusiasm. Where is it today? Still haggling, still discussing, still finding fault, still out of the court.

In February, 1923, President Harding recommended that the

United States become a member of the Court. It was the natural thing to do. He suggested certain reservations or conditions, none of which were objectionable; I do not think myself that they were important, but they were harmless; they would have been readily accepted by the other nations of the world. What became of his recommendations? They went to the Senate Committee on Foreign Affairs—if I may say so, that morgue where so many good and bad treaties have been put to their eternal rest.

The Chairman of that Committee was my former co-laborator and, perhaps, I may say my friend, the late Senator Lodge. Now, every tradition and instinct of Senator Lodge would have made him an urgent supporter of that recommendation; but, for reasons which I think are now generally admitted, the Senator put himself squarely in opposition to our becoming a member of the Court. Months and months passed and the Committee refused to make a report, leaving the impression that it was either opposed to our becoming a member of the Court or it desired to delay as long as possible action upon the President's recommendation. Well, American public opinion, which from the very first has been in sympathy with this great enterprise, began to assert itself; it began to mobilize, and from every part of this country there came protests; there came demands that the Committee on Foreign Relations should make a report, either in favor of or against our becoming a member of the Court.

In the meantime, Senator Lodge was re-elected to the Senate by the people of Massachusetts upon a platform which strongly demanded that the United States should become a member of this Court. The result was the distinguished Senator was, figuratively speaking, smoked out of his hole, and he had to make a statement, and he did. He came out in a public statement in which he expressed his opposition to the Permanent Court; he didn't like the name of it; it wasn't a World court; it was tainted by its connection with the League of Nations, of which Woodrow Wilson is admitted to have been the founder, and, therefore, the Senator proposed—and it was one of the most extraordinary proposals, I venture to say, that ever emanated from the brain of a United States Senator. He proposed that this Court, which had been set up at the Hague, which was being at that time supported by forty-eight nations of the world, every one of which was satisfied with it, should be pulled down and in its place there should be set up a new court—a court to be called not "Permanent Court of International Justice," but the "World Court of International Justice." He went on to provide that the judges of the court should be elected by a commission, or two commissions, that might be composed of the members of the Council and Assembly of the League—at any rate they would be called by different names. And then, to complete the comedy, as George Wickersham has very aptly remarked, the Senator added a statement to justify his extraordinary proposal. The statement said the object of this proposal is to enable the United States to resume her former

position of leadership among the nations of the world in the development of international law and in the administration of international justice on the basis of respect for law and equality of states. Well, that any Senator of the United States, however eminent and distinguished he might have been, should have flattered himself for a moment by believing that the other forty-eight nations of the world would agree to tear down the structure which they had set up, and erect in its place another one in order to meet the objections of a single United States Senator was, I repeat, one of the most extraordinary proposals that ever came out of the greatest deliberative body in the world. Of course, nothing ever came of it. The months went on; the Committee on Foreign Relations made no report, until the public opinion of the country increased its demands, when finally fifteen months after the Harding recommendation had been sent to the Senate, Senator Pepper on behalf of the Committee made a report, and his report was hardly less extraordinary than that of Senator Lodge. Senator Pepper proposed at least sixteen changes in it. He proposed to change its name; he proposed to eliminate from the statute of the Court every reference to that detestable League of Nations, so violent was his prejudice against the League. He did not object particularly to the election of the Judges by the Council and the Assembly of the League, provided when they were exercising the electoral function they would call themselves something else than the Council and the Assembly of the League. He was willing that they should go across the street and meet in some other building than the League of Nations Building, and there under a different name elect the Judges of the Court. It was a matter of appearance with Senator Pepper more than anything else. Well, the Democratic members of the Committee on Foreign Relations reported, I think quite correctly, that Senator Pepper's proposal had no other object and it would have no other effect than to prevent the United States forever from becoming a member of the Court.

In the meantime, Senator Lodge died in September, 1924, and with his death there was removed perhaps the most powerful obstacle in the Senate to our becoming a member of the Court. He was succeeded by Senator Borah. Now, Senator Borah, like Senator Lodge, was opposed to the particular World Court. He professes to believe in a World Court, but he didn't like the so-called Wilson Court, as he called it. There was nothing about it that he liked.

Now, Senator Borah is a curious type of personality. There is much about him that is admirable. He is a man of distinct ability; he is a curious mixture of progressivism and of inertness and reactionaryism. I sometimes find myself following him with enthusiasm, and then the next moment I am repelled by his inertness and provincialism. He is a hard man to get to agree with anybody else. The truth of the matter is, Senator Borah all along has been in favor of a World Court, provided it were constructed

according to his notions of what an international court of justice should be. He reminds me a bit of a certain soldier in an Irish regiment, who was always complaining that he was the only man who ever kept the step. I hope I am not too harsh on the Senator, because as I stated, I admire much about him. I sometimes find myself thinking of another story, which I think applies to the Senator just a bit. There occurred in the town the death of a man who was said to be the meanest man in town. There was a funeral, and the minister pronounced a funeral oration, in the course of which he said everything, and more than the facts justified, about the life of the deceased. Then, when he had finished he turned to the audience, and he said "Ladies and Gentlemen, is there anyone here who would like to say a few words about the deceased?" After a painful silence, a man arose in the rear of the audience and said: "Ladies and gentlemen, I should like to say, and I think I ought to say, this much about Brother Jim, namely, that he wasn't as bad all of the time as he was some of the time." That's a little like Senator Borah. His standards of conduct vary.

Now, what happened after Senator Borah became Chairman of the Committee on Foreign Affairs? Things went on as they had under Lodge. He was opposed to our becoming a member of the Court, and he refused to make a report for the Committee. Finally, in 1926, about three years—more than three years—after the Harding recommendation had been sent to the Senate—which, by the way, was renewed by President Coolidge—finally the Senate gave its advice and consented to our becoming a member of the Court, subject not only to the Harding-Coolidge reservations which, as I stated a moment ago, were unobjectionable, but they had a fifth reservation, the one that has kept us out of the Court up to the present moment. Now, the second clause of that fifth reservation is this:—that is the clause that made the trouble—that clause states that the Permanent Court of International Justice shall never give an advisory opinion—not a judgment—an advisory opinion without the consent of the United States touching any matter in which the United States has or claims an interest. Well, the idea which underlay this fifth reservation was this, namely: That it was conceivable, and I grant that it is conceivable, that the World Court might on occasions be asked to give an advisory opinion in some matter which, while it would not be binding upon anybody, might have a moral effect which would embarrass the United States and probably prejudice some national interest of the country, and, therefore, the Court ought not to be allowed to give such an opinion without our consent.

Well, these reservations had to go back to the other powers. There were by this time fifty-four of them members of the Court. When the reservations went to the other powers they began to study them. It happened that the Assembly of the League was meeting in Geneva at the time and the representatives were all

there. They got together in a conference, and they said, "What do these reservations mean, and particularly the second clause of Reservation Five?"

Now, they said, so far as the right of the United States to object to, and to prevent the Court from giving, an advisory opinion in any dispute in which it is actually a party, none of us can object; we concede that right to the United States. But she wants more than that. She asks for a right to prevent the Court from giving an advisory opinion in any dispute between other countries in which she is not a party, not only in disputes in which she actually has an interest, but in which she merely claims an interest. Now, they said, "What does that mean? Does it mean that in a dispute arising between Greece and Turkey, and those two powers are quite willing to have the Court give an advisory opinion on it, the United States may come up and say, we claim an interest in that dispute, and you can't give the opinion? Now, if the United States is to be allowed that great power, she might use it—we do not assume that she will, she might use it to handicap the work of the Permanent Court in the matter of giving advisory opinions, and thus interfere with the discharge by the Court of one of its most important functions, a function which, by the way, has done the most to preserve the peace of the world, more than the judgments of the Court have done.

Well, I cannot go into all of these details, some of which are technical, and I want to avoid as much as possible being technical. But the other fifty-four powers came to this conclusion: They said to the United States, we are not quite sure what this reservation means. It may mean the giving to the United States the right of veto which no other power has. If it means that, it means the admission of the United States to membership in the Court upon a privileged footing, upon a footing of inequality with the other States of the World. If it means that, we cannot concede it. Our dignity, our self-respect, prevents us from doing it. But they said—and I am giving the substance of what the agreement was—they said, if you will send over here to Geneva somebody authorized to speak for the Senate, and he will say to us that the United States does not claim, nor does it desire to become a member of the Court, except upon a footing of equality with the other States of the World, if you will do that, if you will explain this reservation so that we are sure it does not give you a privileged position, we shall be very happy to admit you as a member of the Court; we desire to have you as a member of the Court; there is no country in the world which would be welcomed with more cordiality and more enthusiasm than the great republic of the United States. But ladies and gentlemen, I confess I cannot blame them if they are unwilling to admit the United States under a reservation which may mean a privileged position for the United States. Our country ought not to insist upon it. In the great game of international politics, in the great work of international organization, the States of the World must play the game

on a footing of equality. (Applause.) There is no other way to do it.

Well, what was the reply of the Department of State to this perfectly reasonable answer of the other nations? The Secretary of State, Mr. Kellogg, acting no doubt upon the instructions of President Coolidge, informed the other powers that we could not take part in such a conference. He said, the meaning of the Fifth Reservation is plain and unequivocal, and he intimated that if the other powers could not understand it, it was due to their own stupidity and not to the draftsmanship of the article.

Now, that rebuff, I venture to say, was tantamount to saying to the other powers, "There it is; take it or leave it." There the matter rested until the winter of 1928-1929, Elihu Root happened to be in Geneva. He went there as a member of a committee of jurists to discuss certain proposed amendments of the statutes. Mr. Root had been a member of the original Committee of Twenty, and it was desired by everybody that he should be a member of this second committee. So, in the winter of 1928, we see this old man, eighty-six years of age, crossing the Atlantic in one of the most severe winters on record. I happened to be in Geneva at the time, and I know what the situation there was. But he went on and took the risk, because his heart was in the matter of the United States becoming a member of this Court; and while there he discussed with other members of the Committee the possibility of agreeing upon some sort of formulae, some sort of procedure, by which the United States could become a member of the Court without sacrificing any legitimate right or interest, and yet respect fully the rights of the other states, and so there was included and embodied in the instrument called the Protocol, which I will call the Root Protocol, a formula which in brief is this: Whenever the Council of the League contemplates asking the Court for an advisory opinion, the Government of the United States will be promptly notified and will be given an opportunity to exchange views with the Council of the League, and to present evidence in support of the American claim, if there be one, that the opinion, if given, would be prejudicial to some interest of the United States. Then, the theory of that exchange of views is that it will be frank, that it will go to the point, that the Council of the League on the one hand and the Government of the United States on the other will reach an agreement by which the advisory opinion will be requested in language that will obviate the objection of the United States, or one side or the other will abandon its claim in the interest of the general administration of international justice.

Now, what will happen under that formula? The President of the United States has signed it. All we need now for the United States to become a member under that Protocol is that the Senate should give its advice and consent. Only the Senate now stands in the way. Now, here is how that procedure will work: The Council decides to ask the Court to give an advisory opinion; some

dispute may be between China and Japan. The Court will be requested to suspend action until the pleasure of the United States can be known. The United States then has an opportunity to present to the Council the reasons why in its opinion the giving of that opinion would be prejudicial to the interests of the United States. Now, if we cannot convince the Council that the interest claimed actually exists, the Council can go ahead and request the opinion, and the opinion can be given without the consent of the United States, in which case the United States can withdraw from the Court without any imputation of unfriendliness.

Now, what is likely to happen? I venture to say, Ladies and Gentlemen, in ninety-nine cases out of a hundred the Council of the League will yield to the objection of the United States if it persists in that objection, and will refrain from asking the Court to give an advisory opinion. Anyone who knows the history of the Council of the League of Nations knows very well that from the first to last it has always shown the most scrupulous deference, especially to the wishes of the great powers, and it has never requested an advisory opinion in any case in which any power objected to the giving of that opinion.

In the dispute between Greece and Turkey the Council asked the Court to give an advisory opinion in the matter, or at least it was on the point of making such request, and the Council said no, we will not make such a request unless both parties to the dispute ask for the opinion. Now, if the Council of the League will show that sort of deference to a power like Turkey, how much more deference will it show to the United States? All the more so, because the Council is aware that if it requested an opinion against the wishes of the United States it will be tantamount to expelling the United States from membership in the Court; and I believe, Ladies and Gentlemen, that once the United States is a member of the World Court, the last thing that the Council of the League will want to do is to force it to withdraw.

So, to summarize the whole matter, I believe I am entirely within the realm of the truth when I say that there will not be a case in a hundred where if we join the Court under this Root Protocol where the Council will ever ask for the advisory opinion against the wishes of the United States.

Now, I should like to ask Senators like Borah, and Johnson, and Dill, and others who think we should stay out of the Court unless we can have an absolute right to prevent the Court from giving an advisory opinion in any dispute in which we claim an interest; I would like to ask those Senators who take their view, what would we gain by staying out of the Court. We would gain nothing, but we would lose everything; we would lose the right which the Root Protocol gives us of objecting to the giving of an advisory opinion, and with it a large chance, a chance which I believe will amount practically to a certainty, to prevent such an opinion being given.

Now, one of the things that worries our Senators, some of

them, and others, is that this Court may be asked to give an advisory opinion touching our Monroe Doctrine. Senator Knox used to say it was given the United States by Providence to state and interpret the Monroe Doctrine, and that we must never share that power with anybody else. There are Americans who will fight for the Monroe Doctrine at the throw up of a hat, and they don't know what it is all about. Now, we don't want this World Court to be giving opinions about the Monroe Doctrine.

Ladies and Gentlemen, I want to ask you this question: Suppose Great Britain and Venezuela have a dispute, and they agree to submit that dispute to the World Court for an advisory opinion and that opinion would naturally touch upon the Monroe Doctrine, I want to ask you, how can we, outside of the Court, say to two sovereign states like Great Britain and Venezuela, you can't submit a dispute to the World Court for an opinion which touches upon the Monroe Doctrine? It can't be done. They are sovereign states; they have a right to submit to the Court of which they are members any dispute which they may have. Now, the only way we can prevent that Court from giving opinions on the Monroe Doctrine is to join the Court under this Root Protocol, and if such a request should come to the Council, all we would need to do is to say to the Council, "Gentlemen of the Council, that dispute deals with the Monroe Doctrine; under this formula we have the right to object to it," and you can be certain that the opinion would never be given. In other words, the Root Protocol gives us the only right we will ever have to object to advisory opinions by the World Court, and if we stay out, if we reject the Root Protocol and the World Court, we cannot prevent that Court from giving opinions in matters in which we claim an interest.

I want to say this, Ladies and Gentlemen, about these advisory opinions of the World Court: that in my judgment our American friends who object to advisory opinions by the World Court have made a mountain out of a mole hill; they have grossly exaggerated the dangers of advisory opinions, and they have overlooked the great advantage of them. I don't need to say to the lawyers here that an advisory opinion has no binding effect on anybody, nor upon the Council which requests it, nor upon the parties which are involved in the case. An advisory opinion has only a moral value. The advisory opinions which the World Court has given, and up to the present time, it has given eighteen—it has given more advisory opinions than it has judgments—those advisory opinions have proved to be the most potent means by which the World Court has been able to settle disputes among nations. It frequently happens that two nations in dispute are not willing to submit a dispute to the Court for a judgment, which would be binding upon them, but they are quite willing to submit the dispute to the Court for an advisory opinion which, although it is not binding upon them, they will accept it when it has been given.

That has happened in case after case which I could cite to you, if I had the time.

Now, the truth is the World Court today through its advisory opinions is helping along the cause of peace of the world much more effectively than it is through judgments which it gives. I may say this, also, that the disputes in which advisory opinions have been given have usually been dangerous disputes—very dangerous, whereas in hardly a case in which the Court was asked to give a judgment was the dispute dangerous.

Now, some of our friends think the giving of advisory opinions is not a proper judicial function. I should like to remind them that many states in this Union today give their supreme courts power to render advisory opinions. The Supreme Court of Massachusetts has been giving advisory opinions to the Governor and the Legislature for more than fifteen years; your nearest neighbor, Alabama, in 1923, in the face of this criticism of advisory opinions, adopted an amendment to the Constitution which gives the Supreme Court of that State the power to give advisory opinions. Many courts today give declaratory judgments. There are more than thirty States in the Union where the Court can give declaratory judgments. Lawyers tell me that a declaratory judgment is a very important and useful form of jurisdiction. It is very much like an advisory opinion. So, I say, I think we Americans—those who object to joining the World Court, have exaggerated the possible danger of advisory opinions out of all proportions to their importance. Well, the Root Formula entirely disposes, I think effectively, of this objection to our becoming a member of the Court. But that still will not satisfy the Borahs, and the Dills, and the Johnsons, and some others. They have other objections still against the Court. The oldest one, the one which they have made the master, is that the Court is tainted by its connection with the League of Nations. They will tell you that the Court was created by the League of Nations; that it derives its jurisdiction from the League of Nations; that the Judges of the Court are elected by the League of Nations; that the Judges are paid their salaries out of the treasury of the League of Nations; that the Court is really not a World Court, but it is a court—some of them call it the Attorney General of the League of Nations. Now, what are the facts? I haven't time to go into all these arguments. The fact of the matter is, Ladies and Gentlemen, these objections are not well-founded—not a single one of them. There is nothing in the covenant of the League of Nations about the World Court, except the solitary statement that there shall be a World Court. The World Court is created by the International Treaty, called the Statute of the Court; it is entirely separate and distinct from the Court; it owes its validity to the fact that it has been ratified by fifty-four nations of the world. Some of them, I may add, are not members of the League of Nations at all. In one of the current magazines, the Advocate of Peace, a very reputable magazine—I have been

a reader of it for a great many years—there is an article by Senator Dill of Washington. Senator Dill is one of the most uncompromising opponents of our joining the Court. Senator Dill in that article makes these extraordinary statements: He said the League of Nations wrote the law of the World Court; the League of Nations determines the jurisdiction of the World Court; the law which the World Court applies is the Covenant of the League of Nations. Then he goes on to say: Suppose some nation proposes that all emigration bars be let down; suppose another nation proposes that the inter-allied debt be cancelled, and then asks the World Court to give an opinion as to whether that is lawful or not. Ladies and Gentlemen, Senator Dill attributes to the World Court a roving jurisdiction which it does not possess. He seems to think that whenever such a proposal as this is made the Judges of the Court run off to the Hague and put on their gowns and render an opinion as to whether such a thing as that is lawful or not. The World Court has no such jurisdiction, and Senator Dill ought to know it. The World Court has no jurisdiction, except in disputes, or controversies, which are actually submitted to the Court by the parties, or which are submitted to the Court by the Council of the League for advisory opinions. And about the League creating the Court, Senator Dill doesn't know the difference between the Covenant of the League and the Statute of the Court. The Covenant of the League doesn't deal with the World Court at all; it doesn't confer any jurisdiction upon the World Court, not the slightest. Every bit of jurisdiction which the World Court has is conferred by the Statute of the Court, or is conferred by the treaties.

Now, I always try to speak respectfully of the people who entertain opinions which differ from mine, even when they are Senators of the United States. But Ladies and Gentlemen, I hope you will pardon me if I say I have never seen in so few lines as much unadulterated bunk about the World Court as you will find in the half dozen lines from Senator Dill's article, from which I have quoted.

We had in Illinois last year a lady who was a candidate for the Senate of that State. She spent nearly a half million dollars campaigning the State. She went up and down that great commonwealth; she made hundreds of speeches—I heard one or two of them out of curiosity; she talked about a World Court. and you can believe me when I tell you as an interested student and nothing else, she rarely ever made a correct statement about the World Court; and the tragedy and pity of it was a large percentage of the people of that State didn't know any better. The year before we had another candidate; his name was Smith; he was Chairman of the Public Utilities Commission; he went up and down the State of Illinois telling the people of that State if we joined the World Court we could be dragged before that Court by Japan on a question of our right to exclude Japanese from entering the United States. There wasn't a word of truth

in it; it was pure sophistry. Well, he was elected, but he spent a little too much money, and be it said to the eternal credit of the Senate they wouldn't receive him. The lady was ingloriously defeated by about seven hundred thousand majority, and we think we shall not hear anything more about the World Court from her in Illinois.

Now, I don't want to be too hard on the Senators, but some of them are woefully ignorant about the World Court. My fellowtownsman and friend, Senator told me once—we were talking about the World Court, and he said, the truth about the matter is about two-thirds of our Senators don't know what this thing you call the World Court is. While I think the Senator, perhaps, exaggerated the situation, and I do not think the proportion is that large, but I never read the speeches of men like Senators Dill, Borah and former Senator Reed, when I don't feel they are not hurt with knowledge about the World Court. Of course, there are some of them who don't care; they are indifferent—not all of them, I am happy to say. About them not caring, I am reminded of another story of a negro who sold a horse to a white man—sold a mule to a white man, and he told that white man that that mule was as fleet of foot as a grey hound, and that he could see with the eye of an eagle. The transaction was made; the mule was bought; it was hitched to the buggy, the purchaser got in, and the mule made off like a rocket and ran right squarely into a tree by the edge of the road. The purchaser, badly bruised, got out and went back to the vendor, and he said: "Look here, what about this mule; you told me he could see with the eye of an eagle." "Yes, sir," the negro said, "that mule can see as good as you or I can; the difference between him and you and me is this: He just don't give a damn."

Another objection to the World Court is that it is not a real World Court. That is Senator Borah's objection—isn't a World Court. Well, I am not going to discuss that, Ladies and Gentlemen, except to say this: That a court which is now supported by fifty-four nations of the world, nearly all of them, a court which is open to every nation of the world, a court which today will hear cases of nations which are not members of the Court, like Russia and the United States, a Court whose judges can be chosen from every nation of the world, and our country has had a judge on that court from the beginning—when you say that isn't a World Court, I feel like asking: What would it take to make it a World Court? The whole objection is absurd.

Another objection is that the Court has no law to apply. Senator Borah has made a great deal of that objection. The Senator said, wait, and let's codify international law, so the Court will have the complete body of the law to apply, so that when nations go before it with their disputes the Court will not have to make the law, by which its decisions are reached. Now, Senator Borah thinks this thing of codification of international law is a simple matter, can be done over night. What are the

facts? There is a great body of international law already in existence, a body of international law which the arbitration tribunals and mixed commissions are applying every day, which the foreign offices of the world are invoking in defense of claims which they themselves are presenting to other nations, or in bar of claims against them; the great body of international law which the text writers are expounding. You say there is no international law? Well, we have never refused to submit disputes to the old Hague Court of Arbitration that was set up in 1899; we are submitting disputes almost every year to arbitration tribunals and mixed commissions, and I have never heard it said in the United States that we cannot afford to submit disputes to those tribunals because there is no body of law for them to apply.

Now, if the World Court had to wait until the whole body of international law were codified, there isn't a man or woman here who would ever live to see such a Court set up; as Mr. Hughes has aptly said, "We should have to wait until the millenium, and if that happy day should ever arrive, we shall then have no need of courts, national or international."

The strangest objection I have heard to the World Court is that it is a foreign court. The ex-Senator from Missouri, Mr. Reed, consumed many hours of the Senate discussing that objection.

The World Court, he said, is a foreign court; it is composed of the representatives of every nation professing religion from Voodooism to Christianity; composed of the representatives of every stage of progress from Canibalism to Civilization; foreign in thought, foreign in religion, foreign in every respect. Then the Senator said, read the list of Judges; pronounce them, if you can. I see Senator Stephens here. Perhaps he heard Senator Reed read that list of the fifteen Judges of the World Court. Reed defied the Senate to pronounce the names of those five Judges. He says, "Do you want to submit your disputes to a court like that?"

Well, Ladies and Gentlemen, I have this to say about that: I don't think the difficulty of pronouncing the names of judges ought necessarily to be an objection in the United States, where we have judges bearing such names as Van Devanter, Cordoza,

Compare them with the names of

I cannot see that the difficulty of pronouncing names is so serious. Well, now, the fact of the matter is the World Court is a foreign court in a certain sense. If we join that Court we are not likely ever to have more than one of the fifteen judges on it; the other fourteen judges will be foreigners; and, as there are only fifteen judges and more than sixty nations in the world, most of the other nations will have no judge at all on the Court. They will be no worse off than we are. Unfortunately, there is no mathematical formula or process or alchemy by which you can

set up an international court upon which there will be no foreign judges. It cannot be done.

Now, I think Senator Reed exaggerated the danger. The Senator went on the hypothesis that these Judges would all be governmental judges that would all vote for claims of their own countries. There is nothing to justify that assumption. I have seen during the last eight years English, French, German, Greek and Turkish judges on the World Court concurring in opinions which were adverse to the claims of their own country.

Every effort was made in the organization of the World Court to guard against the possibility of the election of Judges who would be bound in any way by their Governments. The judges are not nominated by foreign offices; they are not elected by governments. No judge of the World Court is bound to take orders from any government or any foreign office; they cannot do so without violating their oath of office.

Now, what has been the fact? Take the Permanent Court of Arbitration; that court during the last thirty-one years has decided eighteen cases. The United States was a party in five of those cases, and we won two of them. There was no criticism of the others, in which we lost, except one. We didn't have a single judge in any of those cases. Now, I think the lawyer who wins two-fifths of his cases ought to feel that he is doing pretty well. Talking of arbitration cases, the United States has from first to last submitted to arbitration tribunals nearly one hundred cases. In very few of those cases did we have a single judge, and in none of them did we have more than a small minority, and yet we won more cases than we have lost. You can not go, my friends, on the theory that because the judge who sits in your case is a stranger to the case that he is against you. The Senator from Missouri—the ex-Senator—most of these fellows who take this attitude sooner or later become "exes"—Mr. Reed, a few months ago made a speech over the radio—some of you may have heard it. He said to the American people: "The United States ought never to submit any dispute which it has with another nation involving the taking of property or the rights or interests of the United States to any court, except one composed of the sons and daughters of the noble men who fought the battles of the bloody Revolution and who have maintained the honor and glory of this country to this blessed hour." Now, Ladies and Gentlemen, he might have added: "Why should we? We are big and strong enough to settle our own disputes without consulting anybody else." But I need not say to this intelligent audience that if we go on that principle, that we shall be the judges of our own disputes, we ought never to have signed the Kellogg Pact; we ought never to have ratified the London Treaty for the reduction of naval armaments, because if we go on that theory we are going to need more battleships than we have now.

Mrs. McCormick during her campaign in Illinois last year, among the arguments which she advanced against our going into

the Court, said: "What is the use? We are already a member of one court, the old Hague Court of Arbitration, so-called, set up in 1899, which has been operated for thirty-one years, why join another one now?"

To a great many people, uninformed possibly, that argument carried great weight. What are the facts about that old Court, which she says we tried and which is good enough for us? That Court is nothing more than a list of about one hundred and thirty-six names; the names of people sent by the different governments of the world to the clerk's office at the Hague; they are the names of men whom the governments communicating them regarded as being qualified to sit as judges in arbitration cases. Now, that Court has never met; it never will meet; it has no existence; it is nothing but a phantom. Whenever nations want to patronize it they have to conclude a special treaty and select from that panel a court, and when the members of that court decide the case they go out of existence; they never decide another case. Now, that is not a court of justice; it has no element of permanency; it cannot contribute to the continuity of international law. The small states of the World refuse to patronize it because they have to pay their own expenses, and the expenses of many small states are out of proportion to the value at issue in the controversy. That is no court. I leave it to the professors of physics to say whether the United States is properly a member of the list, whether you can join something which is nothing but a list.

Ladies and Gentlemen, the American people are not satisfied with that make-shift; they want a real court of justice, composed of judges who are under a sense of judicial responsibility, who are bound to apply the law in reaching their decisions, who decide case after case, and who contribute something to the development of international law.

Well, I think, Mr. Chairman, I must have more than used up my time. I would like to say this much in conclusion: If we refuse to join the World Court now under the Root Protocol, a formula which virtually gives the United States all it asks for, which virtually admits us to membership in the Court on our own terms, which, in my honest opinion, safeguards and protects every legitimate American interest—I say, if in the face of that we spurn the Court, if we continue to stay out, I do not see how we can continue, as we have in the past, to indulge in professions to the effect that we love peace; that we want to see it advance; that we are ready to contribute our part, and the like.

Now, the fact is, our joining that Court will involve no entanglement, no responsibility, not the loss of a jot or tittle of our sovereignty or independence.

My friends, the only responsibility which our membership in that Court will create is the obligation to appropriate every year a small sum of money, amounting to thirty-five or forty thousand dollars, to maintain the Court; and, under the Root Protocol, I

may say the United States is left free to determine the amount of that quota. Every other nation will have the amount determined by the Council of the League. We are left free to say that our quota is only Ten Thousand Dollars, if we wish. All along the line the other nations have met our objections; they have shown a disposition to give and take, to conciliate, and I think it makes a striking contrast with the policy which we have pursued, the policy of taking or leaving it.

Now, what are we going to do about it? For eight years we have haggled. Some of our Senators, a small quantity of them, have shown at times childishness; they have shown narrowness of outlook; they have shown a partisanship that was almost unbelievable, and under our Constitution they have kept us out. For thirty years or more those of our statesmen who had a right to speak for the American people have said that the United States believes in an international court; they have advocated it in season and out of season; the national platform of both political parties have vied with each other in declaring their sympathy for this Court; the House of Representatives in 1925, by an almost unanimous vote, passed a resolution expressing its desire that we should become a member of the Court, and indicating its readiness to enact whatever legislation might be necessary to bring us into the Court. The press of the country, with a comparatively small exception, have advocated our joining the Court; every organization in the country which wields influence, the American Bar Association, the American Federation of Labor, the American Legion, the League of Women Voters, the American Chamber of Commerce, and all of the others, have gone on record in favor of it. So far as I know, the only two organizations in this country which are known to be opposed to our joining the Court are the Daughters of the American Revolution and the Ku Klux Klan. I understand that the Daughters are very much divided on the question, and that there have been recently a large number of resignations because of the intrusive attitude of the majority. Well, in the meantime, we are going ahead professing, our statesmen, our Senators, our political orators, are saying without ceasing that the United States desires to see the cause of peace advanced, that we are conscious of our responsibility, that we are ready to do our part. The late Senator Lodge once said the United States has done more to promote the cause of international peace than every League, every organization, every alliance, in the history of the world, and here we are, asked to assume a responsibility which is nothing but moral, cannot possibly involve our laws of freedom of action in any sense, and yet we find excuses.

Ladies and Gentlemen, it is a shame, and I do not believe this Nation can ever give an account for it. I believe if we go on to the judgment the history will be against us. I am satisfied of one thing, namely, that we shall be judged not by these fine professions, some of which I have referred to; but we shall be judged

by the actual contributions which we make. Woodrow Wilson used to say that we were made strong in the Providence of God that our strength might be used to show, not our selfishness but our greatness. During the World War, Walter Hines Page, then Ambassador to London, wrote Mr. Wilson a letter in which he said: "Mr. President, it is as clear as day to any man who has two good eyes, that the future leadership of the world is ours." The President wrote back to Mr. Page and said: "I think you are probably correct about that leadership, but," he said, "the thing that troubles me is what are we going to do with that leadership when it comes to us?" It came much sooner than either Mr. Page or the President ever imagined it would come.

That question is still addressed to our people today—"What are we going to do with that leadership?" It boots nothing to have it, unless we exercise it. What are we going to do with it? Are we going to throw it away by partisan discussion in the Senate or in the country, or are we going to arise to the occasion and use it?

Mr. Wilson said on another occasion: "We boast in this country of America first. America first," he said, "is nothing to boast of, it is nothing to be proud of, unless it means America first in the spirit of fraternity; America first in unselfishness; America first in the extent of her contributions toward the advancement of our civilization." (Continued applause.)

BY PRESIDENT BUTLER: In behalf of this Association, I wish to thank Professor Garner for the very splendid and instructive address. I am sure that every member of this Bar is highly gratified that I didn't find a Bishop.

We overlooked reading the Minutes of the previous session, as required by the Constitution and By-Laws. If there is no objection, the minutes will stand approved as shown in the official Journal. They were printed in the August, 1930, Law Journal, and if there is no objection to it, we will let the record show they were read and approved.

Is there anything that anyone would like to bring before the Association at this time?

BY MR. SHOTTS: Mr. President, I enjoyed the address of Mr. Garner very much, and, as he is a native of Mississippi, and one of our sons, I move that he be made an honorary member of the Mississippi Bar Association.

The motion was duly seconded.

BY PRESIDENT BUTLER: You have heard the motion, which has been seconded, that our speaker, Professor Garner, be made an honorary member of our State Bar Association. All in favor of the motion will say AYE; those opposed, NO. The motion is unanimously carried.

Professor Garner, I am happy to inform you that you

have been made an honorary member of the Mississippi State Bar Association.

Has anyone anything else to come before the Association? If not, we will stand adjourned until 2:00 o'clock, at which time we will meet at the Lamar Hotel.

AFTERNOON SESSION

Wednesday, April 29, 1931.

BY PRESIDENT BUTLER: Gentlemen of the Bar Association, under our By-Laws, the Annual Address which you heard this morning was supposed to have been delivered this afternoon, but because of the fact that Professor Garner had to catch an afternoon train, we assumed the authority of putting that address for this morning.

It now becomes my duty under the Constitution and By-Laws to say something, and it also becomes your duty to listen. It has always been more or less embarrassing to me to get up before a crowd of learned lawyers, as you are, to try to say anything, or to read a paper, that I feel would really be worth while or prove interesting to you. Ordinarily, I would not apologize at all for any effort I made—I always try to do the very best I can; but I hope you will fully appreciate the fact that I have had a good many responsibilities and duties to perform and, therefore, have not had the time to give to the preparation of a paper that I would like to have. I have some observations concerning the history of our laws and the administration of justice in Mississippi which I hope will at least prove interesting to the younger members of the Bar:

ADDRESS

Some Observations Concerning Our Laws and the Administration of Justice.

By an act of April 7, 1798, the Mississippi territory was established and the President of the United States authorized to form a government therefor in all respects similar to that of the territory North of the Ohio River, except that relating to slavery; and with the consent of the Senate to appoint necessary officers, all, however, without the impairment of the rights of the State of Georgia. It was provided that upon the establishment of the government in the territory the people should be entitled to enjoy all the rights, etc. granted to the people of the Northwest territory by the ordinance of 1787.

A civil government was set up under this act composed of a Governor, Secretary, Judges and certain other officers. The Governor and Judges legislated from January 22, 1799, until May

10, 1800, when a general assembly composed of a Legislative Counsel and House of Representatives was provided, as was authorized for the Northwest territory.

One of the provisions of the ordinance of 1787 was "the inhabitants of said territory shall always be entitled to the benefits of the writ of habeas corpus and of the trial by a jury, and of judicial proceedings, according to the course of the common law."

By the articles of agreement and cession between the State of Georgia and the United States of April 14, 1802, Georgia ceded to the United States, in trust, all her jurisdiction to the soil of the land situated within the Mississippi territory, and among other things, it was stipulated that the territory ceded shall form a state and be admitted as such into the Union as soon as it shall contain a certain number of free inhabitants, or earlier if Congress deemed proper, on the same conditions and with the same privileges and in the same manner as provided in the ordinance of 1787, "which ordinance shall in all its parts extend to the territory contained in the present act of cession, that article only excepted which forbids slavery."

The Counsel and Assembly continued to pass sundry laws affecting the general welfare, and in 1807, accepted a digest of the laws of the territory prepared by Harry Toulmin, in which, it was provided that from the first day of October next all laws of the Governor and Judges and the acts of the general assembly "and all statutes of England and Great Britain, not contained in said volume of statutes, shall cease to have any force or validity in this territory."

The organized counties lay South of the old Choctaw boundary line, running approximately East from the Southwest corner of Jefferson County, and West of a line from the Yazoo River South to approximately the Southwest corner of the County of Jefferson, when by an act of March 1, 1817, the inhabitants of the Western part of the Mississippi territory were authorized to choose representatives to form a convention to form for themselves a Constitution and State Government, with the right of admission into the Union upon the same footing with the original states. The Constitution was required to be Republic in form and not repugnant to the ordinance organizing the Northwest territory.

The convention met in the town of Washington July 7, 1817. The fourteen counties were represented by forty-seven delegates. David Holmes was elected President and Louis Winston Secretary. The convention was composed of the leading lawyers and business men of the State.

The Constitution as approved consisted of six articles, together with a schedule and an ordinance required by the enabling act, as follows:

1. A comprehensive bill of rights similar to that in subsequent constitutions.

2. Divided the powers of government into three distinct de-

partments, and prohibited persons in one from exercising powers belonging to the other, except in certain enumerated instances.

3. Established a legislative department, known as the General Assembly, similar to that in subsequent constitutions.

4. Confided supreme executive power in the Governor and defined his general duties and powers.

A Secretary of State, Lieutenant Governor, Attorney General and Treasurer were provided for, and the Legislature was authorized to organize the militia.

5. Vested the judicial power in one Supreme Court and such Superior Courts and Inferior Courts of law and equity as the legislature might from time to time establish. There were required to be appointed not less than four, nor more than eight, judges of the Supreme and Superior Courts. They were to receive fixed compensation, not to be diminished during their continuance in office. The State was divided into convenient districts.

The Superior Court was given original jurisdiction in all criminal matters against the State and all civil matters where the amount in controversy exceeded $50.00.

The Legislature was authorized to establish a court or courts of chancery, with exclusive original equity jurisdiction. Until the establishment of such courts the superior courts were to exercise equity jurisdiction.

The legislature was required to establish a probate court for each county, for the granting of letters testamentary and administration, for orphans' business, for county police and for the trial of slaves.

Justice Courts with jurisdiction limited to $50.00 in civil cases were authorized and the right of appeal secured under rules to be prescribed by law. The Judges of the Supreme, Chancery and Superior Courts were elected by the legislature and held their office during good behavior.

The Governor and all civil officers might be impeached by the House of Representatives, and thereupon tried by the Senate.

6. This article prescribed the form of official oath; defined treason; disqualifications for office; eligibility to office; regulated appropriations; incorporation of banks; tenure of office; authority to pass laws to suppress dueling, and contained other provisions too numerous to mention.

Section 7 of that article is of peculiar interest. It provides:

"Sec. 7. Ministers of the gospel, being by their profession dedicated to God, and the care of souls, ought not to be diverted from the great duties of their functions. Therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of Governor, Lieutenant Governor, or to a seat in either branch of the general assembly."

Section 17 required divorces to be granted in cases provided for by law by suits in chancery, with a provisio that no decree for divorce should be effective until the same was sanctioned by two-thirds of both houses of the general assembly.

The assembly had no right to emancipate a slave without the consent of the owner, except where the slave had rendered dis-

tinguished service, and in such event full compensation was to be paid for the emancipated slave.

Emigrants were permitted to bring in slaves, if recognized as such by the laws of other states.

Under certain conditions owners of slaves were permitted to emancipate them without prejudice to the rights of creditors. The general assembly had power to prevent the importation of slaves as merchandise and to require the owners to treat them humanely. In the prosecution of slaves no inquest by a grand jury was necessary, but the proceeding was to be regulated by law, and in capital cases, they could not be deprived of an impartial trial by a petit jury.

A method for calling a convention to revise or amend the Constitution was provided. An appropriate schedule continuing in force certain laws and certain officers and safeguarding rights was adopted.

Substantial property qualifications were annexed to the eligibility of the Governor, Senators and Representatives to hold office. State officers, other than the Governor, Senators and Representatives, but including judges, were to be elected or appointed by the legislature. The courts were given power to elect their own clerks.

As required by the enabling act, an ordinance irrevocable without the consent of the United States, was adopted, providing for a disclaimer of any title to the unappropriated public lands; that each and every tract of land sold by Congress should be and remain exempt from taxation for five years from the date of the respective sales; that lands of non resident citizens of the United States should be taxed no higher than lands of residents; that no tax should be imposed upon lands, the property of the United States, and that the Mississippi River, Gulf of Mexico, and navigable waters leading into same, should forever be free to the inhabitants of the State, and other citizens of the United States.

In Pollard vs. Hagan, 3 How. 212 (11 L. Ed. 595) the Supreme Court of the United States held that the Federal Government never held any municipal sovereignty, benefit or right of soil in and to the territory of which Mississippi was formed, except for temporary purposes, to execute the trust imposed by the Georgia cession; that the ordinance, in so far as it purported to be a covenant against taxing lands of the United States, was wholly unnecessary and did not create a contract or compact, but was a mere regulation regarding the disposition of public lands and fully effective without the consent of the State. Moreover, the court later decided the State never at any time had the constitutional power to tax the property of the Federal Government, without its consent.[1]

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1 McCullough vs. Maryland, 4 Wheat. 316;
Osborn vs. Bank, 9 Wheat. 739.

The Supreme Court in the Pollard case also held that the supposed compact regarding the freedom of navigable waters was but a regulation of commerce, fully authorized under the Federal Constitution, and by implication, that the consent of the State to such free use was unnecessary.

By an act of Congress of January 23, 1847, the United States assented to the taxation of lands in this State sold by it from and after the date of sale. The non discriminatory taxing feature of the compact was superceded by the 14th amendment to the Constitution of the United States. It will thus be seen that the solemn provisions of this covenant, intended to be perpetual in effect, were either wholly unnecessary, or have been subsequently superseded or set aside.

It is interesting to note that the Supreme Court of the United States in the Pollard case held that, by the Acts of Congress and cession above referred to, the common law was extended to the Mississippi territory and the French and Spanish law excluded therefrom, and that at about the same time the State Supreme Court held that while the common law was a portion of the law of the land and was so recognized by the State Constitution, it was subject to legislative change.[2]

It has already been observed that all English statutes not contained in the Toulmin Digest were repealed at an early date. So it is, that we became a common law state, unaffected by English statutes not re-enacted; that is, our system of laws is composed of the common law as changed or modified by statutes, or as affected by our habits, wants and customs. And the need of all statutory enactments is but to make more perfect and complete the fundamental principles of the unwritten laws of England and to better adjust them to our civilization.

It was in furtherance of this that the first code, under the Constitution of 1817, was adopted. This is known as Poindexter's Code, sometimes referred to as the Code of 1822, and sometimes as that of 1823.

Space forbids detailed reference to the comprehensive system of laws embraced in that code. Many of them were crude and would be impossible under modern conditions. A number of them have been brought forward, and in substance will be found in the Code of 1930.

This code dealt at length with the organization and jurisdiction of courts and the administration of justice. County Courts were established with jurisdiction of county tax levies; court house and jail, local police, the payment of claims and limited civil jurisdiction. Also with jurisdiction of all prosecutions against slaves charged with felony, and in such cases all the powers incident to a court of **oyer** and **terminer** were conferred. The proceedings of the County Court were outlined fully and understandingly and appeals provided for.

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2 Noonan vs. State, 1 S. & M. 562.

By the Constitution of 1832 certain functions of the County Court were transferred to the Boards of Police, which, under the Constitution of 1869, became Boards of Supervisors. Its jurisdiction relating to the trial of slaves was confided to the Circuit Courts and its civil jurisdiction to the Justice Court.

In Poindexter's Code, a Justice of the Peace Court with limited criminal and civil jurisdiction was created and proceedings regulated by a comprehensive statute. This court corresponded in a general way to our Justice of the Peace Court of today.

A Probate Court, known as the Orphans' Court, was provided for, as authorized by the Constitution. It continued in existence until 1869, when its jurisdiction was conferred upon the Chancery Court, where it has since remained. A reference to the statute will disclose that the fundamental provisions of the present probate practice had its inception in the Code of 1822.

A Superior Court of Chancery was created with general jurisdiction in all matters "belonging to or cognizant in a court of equity." It also had jurisdiction of divorces, as limited in the constitution.

By a constitutional amendment of February 6, 1856, the Circuit Judges were required to hold Chancery Court in their respective districts, and the Chancery Court as such discontinued. The jurisdiction and procedure, however, remained substantially the same as in the Code of 1822.

The Constitution of 1869 provided for the establishment of chancery courts in each county, with equity and probate jurisdiction. Somewhat similar provisions are contained in the Constitution of 1890.

The Superior Courts mentioned in the Constitution were designated as Circuit Courts. The Judges of the Supreme Court were made Judges of the Circuit Courts. The Constitution of 1832 created circuit courts having original jurisdiction in all criminal matters and civil jurisdiction where the amount exceeded $50.00. These courts were continued by the Constitutions of 1869 and 1890. The Circuit Court act was a comprehensive one, the fundamentals of which are to be found in the Code of 1930.

The Supreme Court consisted of the Judges of the Superior Court. It was strictly a court of appeals. A significant provision was that in case of equal division the judgment or decree appealed from should be affirmed. The Supreme Court subsequently in Brewer vs. Crum, 111 Miss. 871, in substance adopted this statutory provision as a rule of decision.

The Constitution of 1833 vested the highest appellate jurisdiction in the High Court of Errors and Appeals, consisting of three judges. By the Constitution of 1869 its name was changed to the Supreme Court. This court was continued by the Constitution of 1890, and the judges thereof increased to six by a constitutional amendment effective the 25th day of January, 1916.

Under the Constitution of 1817, the Judges of the Supreme, Circuit and Chancery Courts were appointed by the joint vote

of the general assembly, and held office during good behavior. The Constitution of 1832 made them elective by popular vote. Under the Constitution of 1869 the number of circuit and chancery judges were substantially increased and made appointive by the Governor, by and with the consent of the Senate. This provision met with serious opposition. It was charged that it was a scheme to entrench the Republican party in power. The Constitution of 1890 continued the appointive system. By a constitutional amendment, effective the 12th day of February, 1912, the Judges were again made elective.

There has been but little change in the rules of the Supreme Court since its organization. An application for a rehearing has been supplanted by the less effective suggestion of error. It is interesting to note also that the early rules provided that no cause was to be submitted without argument, except upon approval of the court.

In the old days when a case was called the clerk solemnly read aloud the entire record to the court, after which counsel argued it. It, of course, would be impossible for the court to function if that were the present practice. It must be remembered, however, that when this practice prevailed, stenographers were not in use and the record consisted of only the record proper and the evidence brought up in abbreviated and narrative form.

Time forbids detailed reference to the Code of 1822. Dower and curtesy were in full flower and continued to bloom until abolished by the Code of 1880. The common law distinction between sealed and unsealed instruments was observed and Deeds were required to be under seal. Their abolition by the Code of 1880, brought forth the following soliloquy:

> "Beneath this lies all that remains of Locus Sigilli, a character of ancient date, whose mission was to give peculiar solemnity to documents. Emigrating to this state in its earliest days, he served this day and generation to a good old age, and was gathered to his fathers, generally mourned by the members of the legal profession. He has left surviving only one relative, who is now in the keeping of corporations. Obiit, November 1, 1880. His last request was that this epitaph should be under seal."

The pillary, whipping post and branding were recognized modes of punishment.

A married woman had practically no civil rights. She could not sue without the joinder of her husband; nor defend, except in certain instances where he refused to do so. She was allowed to hold slaves under certain conditions, but could not bind her estate by a separate contract. She was presumed to act under compulsion of her husband at all times, and when conveying property or relinquishing dower was required to be examined separately and apart from him. Her status is reflected by a case decided in 1824, where the Supreme Court solemnly adjudicated that a husband was permitted to exercise the right of moderate chastisement in cases of great emergency and "use solutary res-

traints in every case of misbehavior, without being subjected to vexatious prosecutions."[3]

To the credit of the court be it said that as early as 1882 it repudiated this relic of a cruder civilization and recognized the principle that while "the common law is the perfection of reason," it is not unalterable—"not to be tempered to our habits, wants and customs."

All the common law disabilities of witnesses applied with full force. The testimony of parties in interest could not be received. Husband and wife could neither testify for or against the other. The testimony of negroes, both bond and free, was receivable only for or against negroes or mullatos, and then only in criminal cases. The common law disability of witnesses was carried to the limit when it was solemnly adjudicated that a husband was not a competent witness for a bank in which his wife was a stockholder.[4] (2)

By the code of 1857 many of these disabilities were removed, but even then, the wife and husband were competent witnesses for each other only in criminal cases.

No oath seems to have been required of negroes or mullatos in cases where they were permitted to testify.

On the other hand, the witness was charged by the court to declare the truth in the following language:

"You are brought here as a witness, and, by the direction of the law, I am to tell you before you give your evidence, that you must tell the truth, the whole truth and nothing but the truth; and if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing, have both your ears nailed to the pillary, and cut off, and receive thirty nine lashes on your bare back, well laid on, at the common whipping post."

The penalty for false swearing in such case was "to have one ear nailed to the pillary, there to stand for a space of one hour, and then the said ear to be cut off, and thereafter, the other ear nailed in like manner and cut off at the expiration of one hour, and moreover, to receive thirty nine lashes on his on her bare back well laid on at the public whipping post, or such other punishment as the court shall think proper, not extending to life or limb."

Such a penalty was, of course, harsh, but perjury then was regarded as a heinous crime and was punished more severely than any other non capital offense. No reference is found in any of the books to the imposition of this extreme penalty against a negro or mullato, and it may, therefore, be assumed that it was never inflicted.

The matter of admitting negro testimony was a leading political issue in the campaign of 1865. Its admission was authorized by legislative enactment in that year. The first recorded instance of the admission of such testimony was in the Mayor's Court at Vicksburg. Judge Campbell, later Chief Justice, was one of the

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3 Bradley vs. State, 10 S. & M. 618.

4 (1) Gross vs. State, 135 Miss. 625;
(2) Routh vs. Bank, 12 S. & M. 161.

first judges to admit such evidence. In 1865 a white man was convicted in his court by a white jury upon negro testimony. For admitting it he was severely criticised. When passing sentence Judge Campbell pertinently remarked:

"The idea that it is dangerous to admit negro testimony against whites and that combinations among freedmen to fabricate false testimony will result in unjust convictions, will be dissapated in the mind of every sensible man who calmly reflects on the fact that it is usually difficult to convict of crime even on the testimony of whites, and that a jury of white men with all their knowledge of negro character, jealousy of caste and prejudice against this innovation in the law of evidence, and a white judge with a courthouse crowded with white spectators, with white men as attorneys on both sides, will not be likely to be deceived and duped into improper convictions."

Actions concerning lands, etc., were barred in twenty years; fifty years adverse occupancy, etc. gave title; actions of trespass were barred in six years; assault, etc., two years; suits on sealed instruments, sixteen years; actions on bonds of public officers, five years; open accounts, two years.

The Revenue Statute was exceedingly crude. Lands were divided into four classes: one, consisting of lands lying within eight miles of the city of Natchez, which were rated at $3.00, $8.00 and $12.00 per acre, depending upon the quality; two, consisting of all lands lying within fourteen miles of the Mississippi River, not in Class 1, rated at $2.00, $4.00 and $7.00, depending upon the quality; three, consisting of all lands more than fourteen, and not more than twenty miles from the Mississippi River, rated at $2.00, $3.00 and $5.00 per acre, depending upon the quality; and four, consisting of lands lying more than twenty miles from the Mississippi River and west of the Eastern boundary of the State, rated at $2.00, $3.00 and $4.00 per acre, according to quality, upon all of which a tax of two mills was levied. The sum of seventy-five cents was collected on each slave and each free white person above the age of 21 years and under the age of 50 years; $3.00 on each free negro over 21 and under 50; two mills on lots and buildings within cities; two mills upon the amount of the annual sales of merchandise; $1.00 per wheel on every "pleasureable" carriage, and 50 cents upon each carriage called "Dearborn" used as a pleasureable carriage; two and one-half mills on the capital stock of each incorporated bank; schools, charitable institutions, etc., were exempt.

Privilege taxes were imposed upon billiard tables, taverns and hawkers and peddlers.

It is a far cry from these to our modern system of ad valorem taxation, income, inheritance, sales, privileges, franchise and automobile taxes.

The body of a creditor might be taken in execution. Imprisonment for debt was not abolished until February 22, 1840, and not then, if upon issue submitted to a jury, they declare there had been fraud on the part of the debtor in concealing his property.

The person taken in execution might have the liberty of the bounds of the prison, which first consisted of ten acres of land

adjoining the prison, and was later extended to the corporate limits of the town in which the prison was located, and to at least twenty acres, upon giving security in double the amount of the debt for which he was imprisoned, to keep within the bounds of the prison. Such creditor might, by giving bond conditioned that he shall render his body in settlement of the execution before the expiration of a year, obtain the privilege of going out and returning to the prison at his pleasure during the year. The creditor might be released of further imprisonment by surrendering all of his property in settlement of the debts. By a later act he might obtain his release by giving bond to, within two months, surrender all of his property. In 1825 an act was passed prohibiting the imprisonment of any free white woman for debts.

A comprehensive act regarding habeas corpus was embodied in the code, the common law conclusiveness of the return abolished; and the judgment made final, until reversed on appeal. The writ was available to persons wrongfully restrained on criminal charges or under any pretense whatever, but the Supreme Court ruled that slaves were not "persons" within the meaning of the act.[5] The writ was available also for the recovery of slaves wrongfully detained from the owners or overseers. The writ **de homine replegiando,** which seems to have been a common law writ to recover an individual out of the custody of a private person in the same manner that chattels were replevied at common law, was abolished.

There were no departments of public education, health, insurance, agriculture, or highway, railroad or tax commission, or other public state board.

Taverns were entensively regulated. Bond was requisite and the tavern keeper required to keep at least two good feather beds or mattresses for guests with sufficient bed clothing for the same and to provide wholesome and sufficient diet for travelers and stabling and provender for four horses besides his own.

Vaccination for small pox was forbidden, except upon petition to the Governor.

Mills and mill dams; physicians and surgeons; militia and patrols; estrays, branding of stock, enclosures; the inspection of food; weight and measures; free negroes and mullattos; and marriage and divorce were all regulated; relief to the poor provided, and education encouraged.

Owners of gins within one-half mile of any city or village, under penalty, were required to remove or destroy all cottonseed falling from the gin, so that same shall not injuriously affect the health of the inhabitants. The ginner was also forbidden to throw cottonseed in any creek or stream of water used for drinking or fishing purposes.

The majority of the statutes are now antiquated. Many of

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5 Thornton vs. Demoos, 5 S. & M. 609.

them have come down to us without material change. A reference to a few will illustrate.

Our Statute of Joefails and a simple form of declaration have been handed us practically unaltered.

The statutory form of acknowledgments of deeds of private persons is almost identical with that of the Code of 1822, with the omission of the word "sealed."

Estates in fee tail were abolished, but a conveyance or devise to a succession of donees then living and heirs of the body of the remaindermen, and in default thereof to the right heir or donor in fee simple, might be made.

The Code of 1857 limited the donees to two, and thus the statute remained until the Code of 1930, which removed the ultimate limitation to the right heirs of the donor.

The confusing and much discussed rule in Shelley's case was, however, not abolished until the Code of 1880.

The principal change in the Statute of Frauds is that made by Chapter 152, Laws of 1926.

The Statute of Wills is substantially the same, except three witnesses were there required to non-holographic wills disposing of real estate, whereas, only one was required to such wills disposing of personal property, and such the law remained until changed by the Code of 1880, which required two witnesses in each instance.

There have been but few fundamental changes in the Statute of Descent and Distribution. Husband or wife took as heirs only in the absence of others capable in law of inheritance. Illegitimates were given limited rights of inheritance as early as 1846. With the abolition of dower and curtesy the husband and wife took as heirs along with the children.

The common law provision of the non-survival of actions for death was abolished by the Code of 1857, while the fellow servant rule remained unchanged until the adoption of the Constitution of 1890 and was not extended to its present form until 1907. The common law defense of contributory negligence was not abrogated until 1910 and the assumption of risks until 1914.

All in all it may be said that by legislative enactment—and the disposition of the courts, to mould the common law to changed conditions, our laws have kept step with the times, and, generally speaking, have been and are reasonably adjusted to the public welfare.

Regarding the Association

More than a quarter of a century has elapsed since this organization was founded. It has accomplished much and there is every reason for its continued existence and the ever broadening of its influence.

The present administration assumed office fully conscious of the responsibility resting upon it. It was charged with the prosecutions directed and the investigations ordered at the last annual

meeting, and with the formulation of a plan for re-organization—tasks probably greater than any prior administration had been called upon to perform.

It was felt that personal and political friendships and animosities should have no place in the affairs of the association; that the committee in charge of the disbarment proceedings should be absolutely impartial, of firm character, a judicial turn of mind and of recognized legal ability. Because of the prominence and wide personal and political associations of those involved, it was no easy matter to meet the situation. Because of their deep loyalty to the association and high sense of responsibility, and at great personal sacrifices, Hon. Jeff Truly accepted the chairmanship of the committee, and Hons. W. C. Sweat, L. A. Smith, W. S. Welch and J. H. Currie membership therein.

The testimony was read and informations subsequently filed in the Supreme Court of the State against certain members of the Bar involved, and others ordered to be filed therein. A preliminary question of jurisdiction was raised by some of the respondents and all proceedings passed to await the determination of that question. Jurisdiction has been assumed and the respondents who had not answered were required to plead to the merits on or before April 23rd, and the committee authorized to move in respect thereto, on or before May 2nd. May 5th was fixed as the date for further hearing on the pleadings, and a consideration of the proceedings to be employed.

At the last annual meeting a resolution was passed requesting the Legislature then in session to provide funds for the prosecution of these causes. A copy of this resolution was furnished to the proper officers of the Legislature and a bill for the appropriation was introduced and passed by the House but failed of passage in the Senate. The condition of our treasury was such that it could not be called upon. In this situation the committee and executive officers called upon the Bar for voluntary contributions to cover the necessary expenses of stenographers, witnesses, etc. Many members cheerfully responded to this call, but the returns were insufficient to provide adequate resources for the expenses indicated.

The committee have given freely of their time and means, and we take this opportunity to hereby express our personal appreciation for their hearty cooperation.

The responsibility is with the entire bar, and it is assumed that appropriate action will be taken looking to the continued prosecution of the cases filed and ordered to be filed.

This association has not exerted as wide an influence or commanded the respect which it should have. My long connection with it has convinced me that this is partially due, at least, to the feeling, unjust though it may have been, of many members of the bar that it was organized and run chiefly for the benefit of those largely engaged in special fields of practice. Unfortunately, at times the endorsement of the association has been sought or

obtained for highly controversial measures, upon which the Bar was about equally, but violently, divided. Whatever the cause may be, the facts are that out of a Bar of approximately 1200 the association has an active membership of approximately 300.

It is apparent to all that this condition should not obtain; that such an organization cannot best serve the profession or the public interest; that its recommendations carry little weight and receive scant consideration.

Some of the provisions of the Constitution and By-Laws are unsuited to present conditions. The means for dealing with charges against members of the Bar are cumbersome and inadequate. Complaints are now required to be filed with the Committee on Grievances, which is charged with the hearing of the complaints and making recommendations to the association, and no proceeding against the party complained of is contemplated, except when directed by the association. The committee is provided with no funds.

Perhaps, the Bar as a whole stands as high as that of any State. However, your executive and grievance committees are constantly receiving complaints regarding the professional conduct of certain members of the Bar. It would consume practically the entire time of one person to investigate these complaints and answer the correspondence regarding them. Many of the complaints are petty and without justification. Quite a few persons seem to think that the association is a collecting agency, whose chief function and purpose is to require members of the Bar to give diligent attention to matters entrusted to them and to promptly remit when collections are made. But if the letters remain unanswered and the complaints uninvestigated the public may be inclined to regard the entire bar as on the same plane with those complained of.

Some means should be devised where each attorney, upon his admission to the bar, should automatically become a member of this association and required to contribute to its support, and continue his affiliation with it so long as he remains in active practice. The association might well be given certain powers regarding admissions to the Bar, although that would seem not to be indispensable. It should be given adequate authority in the matter of discipline and directly charged with the responsibility for and function of investigating complaints, and the inauguration of disbarment proceedings by committees fully equipped to act, with adequate funds and stenographic help. An executive official with a sufficient salary to justify him in devoting a large part, if not all, of his time, to the affairs of the association should be provided for.

The committee appointed for that purpose will propose a plan of reorganization along the lines recommended by the Conference of Bar Association Delegates and the American Judicature Society, similar to that now in effect in a number of states. Such an organization would command greater respect and exert a

wider influence. It would truly be representative of the Bar of the State, because composed of the entire membership, and when it spoke, it would speak as one with authority.

It has been suggested that such an organization would have too much authority over its members and that its power might not always be judiciously exercised.

In the first place, the plan contemplated that the disciplinary rules, etc. must be approved by the court. Again, the organization would be democratic, with control vested absolutely in the lawyers of the state; and it is apprehended that the members will see to it that the real will of the majority shall determine the policy of the association.

No lawyers should fear rules laid down for their guidance by their associates and approved by the court. Moreover, the entire matter would be subject to change by legislative enactment. These safeguards should be sufficient to remove all apprehension of abuse of power.

Let us as an organization keep step with the age, and as with the law, retain that which is good and wholesome and discard that which is unsuited to present conditions.

BY PRESIDENT BUTLER: The next order of business will be the Report of the Secretary and Treasurer.

To the Mississippi State Bar Association:

Your Secretary-Treasurer begs to submit the following report:

RECEIPTS

Dues collected since last meeting	$1,065.00
Balance cash on hand from 1930 report	1,201.42
Total	$2,266.42

DISBURSEMENTS

Henry V. Sims, principal speaker 1930 meeting	$ 29.75
W. C. Sweat, attorney for B. F. Bell matter	500.00
Streit & Smith, reporting 1930 meeting at Biloxi	154.30
Streit & Smith, stenographers for Grievance Committee	63.00
Better Printing, Inc., for envelopes	5.50
Louis M. Jiggitts, semi-annual salary	150.00
Geo. J. Leftwich, expenses attending meeting Executive Committee	9.80
Checks returned	15.00
Geo. J. Leftwich, expenses meeting Executive Committee	8.00
Better Printing Co., stationery	5.50
The Dixie Press, printing	10.75
To cash, stamps, sending notices of delinquent dues	10.00
Check returned	5.00
Postal Telegraph, telegrams sent by President Butler	7.97
Leon Wheeless, business manager Law Journal for Law Journal	400.00
Streit & Smith, making copies of proceedings in extra session	42.00
Better Printing Co., to pay for stamped envelopes	32.88
Miss Mai Whitehead, multigraphing letters	18.00
Better Printing, Inc., printing letterheads and envelopes	14.75
Louis M. Jiggitts, semi-annual salary, 1931	150.00
Miss Mai Whitehead, multigraphing letters	3.50
Geo. J. Leftwich, expenses of Executive Committee	9.43
Ross & Yerger, premium on Sec.-Treas. bond	10.00
Better Printing Co., Inc., letterheads, envelopes and membership cards	28.30
Check returned	5.00

Exchange charged by bank on deposit	1.20
Cash on hand as of April 27, 1931	576.79
Total	$2,266.42

I, Louis M. Jiggitts, Secretary-Treasurer, do hereby certify that the above report is true and correct.

Witness my signature this the 27th day of April, 1931.

LOUIS M. JIGGITTS,
Secretary-Treasurer.

Approved:

....., President.

On motion, duly seconded, the Report of the Secretary was received.

BY SECRETARY JIGGITTS: You will recall that last year they passed a resolution asking the Legislature to give $10,000.00. President Butler had such a bill drawn up and introduced; it passed the House, but when it go to the Senate it died. So, we didn't get any money out of the Legislature. The next best thing we thought of was to write to every member of the Bar who was affiliated with the Bar Association. I think I wrote something like twelve hundred letters, and out of that whole thing we got $342.00. We have spent $24.50, your Committee has, for its work, and that was for copying the answers and pleadings, so they still have $317.50 of that money for the Grievance Committee.

BY PRESIDENT BUTLER: It occurs to me that ought to come along with the report of that special Committee. If there is no objection, we will let it take that course.

The next on the program is the report of the Executive Committee. If there is no objection, we would like to have that report deferred, because we are not ready to make that report. It has to be done by the consent of the Association.

Upon motion, duly seconded, and carried, the Report of the Executive Committee was deferred until the following day.

BY PRESIDENT BUTLER: The next on the program is an address, "Let the Citizen Beware," by Honorable Frederick J. Lotterhos. I take pleasure in presenting to you, Mr. Lotterhos, of Jackson.

BY MR. LOTTERHOS: Mr. President, and Members of the Bar Association: I want to say first that I deeply appreciate the honor which our President has paid me in requesting me to present an address to you at this time. I feel a good deal of timidity in appearing before a group of men, learned in the profession, to talk about any subject, because whatever I choose it will be more or less technical, and no doubt many of you will know more about it than I do, and perhaps I will lay myself open to criticism or dif-

ference of opinion to some extent. But I deeply appreciate the privilege, and shall present to you the best I have. I have chosen the subject: "Let the Citizen Beware." One of the Jackson newspapers the other day had a forecast of the program, and said "Let the City Beware." (Applause.)

Let The Citizen Beware.

A fundamental doctrine of our common law inheritance is that the law is supreme, and controls all citizens alike. It has been stated by an eminent juridicial writer (Dicey, Law of the Constitution) in these words: "In England the ideal of legal equality, or of the universal subjection of all classes to one law administered by the ordinary Courts has been pushed to its utmost limit. With us every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen. The Reports abound with cases in which officials have been brought before the Courts, and made, in their personal capacity, liable to punishment, or to the payment of damages, for acts done in their official character but in excess of their lawful authority."

It is also a familiar maxim of English common law, that the King, representing the person of the State itself, can do no wrong. It was said that an error of the government was to be attributed to the King's officials, or the employees of the State, ranging from the Prime Minister down. That doctrine was and is based on the fundamental necessity that the sovereign himself should not be subject to liability or punishment, since in theory he is the representative of the State, the supreme power, itself. So, in the United States, it is absolutely necessary that the sovereign states be free from enforcible liability or punishment except by their own consent. We, therefore, have two settled principles of government to start with: first, the law is supreme and controls all citizens and officials equally, and, second, the State itself is not subject to liability or punishment except by its own consent. However, between these two rules, there is a middle ground about which I am going to talk. It concerns the extent to which the State itself, not the officials and employees, is subject to its own laws, or rather the extent to which the State deals with its citizens on a plane of equality and fairness under the law.

Theoretically, perhaps the State is subject to the law, equally with citizens, after we eliminate the element of direct liability. In an English case decided in 1339 (Reginald De Nerford's Case) it was held that a letter from the King could not protect a sheriff from punishment for failing to execute a lawful writ. In other words, the King must follow the rules of the law when he acts, though he does not submit himself to any personal liability when he fails to do so. So, the State of Mississippi, in acting through its officials must abide by the law of the land, and the courts will keep its officials within the proper limits. It is also true that

courts deal fairly and equally with the State as they do with ordinary citizens, and apply the law impartially to the State.

However, in spite of the theory of the common law, and the impartiality of the courts, there are many instances, in this middle ground, where the State, in my opinion, is most unfair to citizens. This inequality or unfairness is bottomed principally on two things: the fundamental nature of a sovereign State and express provisions of the written law. A sovereign State is an intangible thing. It cannot speak except through a formal act of the legislature. And that voice is not always unequivocal. If the States does speak through some other voice than that of the legislature, it hides behind the rule that the King can do no wrong; and therefore if the courts later hold that the State's agent has spoken erroneously, it refuses to be responsible for his utterance, regardless of what injustice may result to some citizen. In both these cases, whether the unfair advantage is taken by the State because of its essential nature as the sovereign or on account of some provision of written law, corrections could be made by constitutional or legislative enactments.

It is my argument that the State should submit itself to law on an equal basis with its citizens, and should wherever possible avoid taking unfair advantage of its people. There are possibly dozens of instances which might be enumerated where the State does not meet its citizens in fairness and equality, but I have thought of two particularly which illustrate the need for a change in the basis of relationship. These concern (1) the protection from punishment of officials and other citizens acting in good faith, and (2) the Statute of Limitations.

In business, in personal affairs, and likewise in public relationships, questions of propriety, of authority, of practical necessity and of contractual or legal rights and duties arise constantly; not only after the parties have acted, so that mutual rights and liabilities have become fixed, but while the parties are acting, or before they begin to perform their duties and obligations. Two men have a contract; but they have different understandings of its meaning. They have the power to sit down together and make a binding agreement which will solve the problem, if they so desire. A corporation employs an agent and vests in him certain authority. He is about to act, but cannot be certain of just what his duty under the authority conferred may be. He can go to his superior officer, or to the general manager, or to the executive board, and receive explicit instructions. Then he can act accordingly in good faith and will not be subject to personal liability. But not so with the State. And here is my first complaint.

The members of this Association, as lawyers, know that the application of the law to a particular state of facts can be very doubtful, and frequently is. The most learned members of the profession disagree, earnestly and sincerely, about the meaning of statutes, and the duties of officers and citizens, as is illustrated

by the many important and closely litigated cases before the courts. Nevertheless, the person, whether officer or not, who has a duty to perform to the state, or a legal relationship with the state, is placed under the absolute burden of determining what the law is, even though he cannot actually know, in advance of a decision by the highest court. Furthermore, he is forced to act one way or the other. He can not protect himself by refusing to act, where he is already in legal relationship with the sovereign.

To illustrate. Suppose the legislature changes a privilege tax provision, as it so frequently does. (It has omitted this important matter from the official code because it is changed so often.) A citizen reads the statute, and he cannot determine whether his business is taxable or not. He consults his lawyer, who advises him that he does not appear to be taxable, but there is some doubt about it. Then what is the citizen's situation? He must either not pay the tax, and take the risk of being afterwards required to pay it and also a heavy penalty; or he must pay the tax, although it appears that he is not liable, and trust to being able to recover it from the government by applying for a refund. It is true that the state provides a method of refund in proper cases by section 3276 of the Code of 1930. But the taxpayer has the burden and expense of recovering his money, and loses the use of it for a time. Furthermore, he has no guarantee of recovery even though he is entitled to it, for his refund depends upon legislative sanction by appropriation. I know of one instance which recently occurred in which certain taxpayers paid a tax running into thousands of dollars, in order to avoid the danger of large penalties. Subsequently, the high court held that the tax was not due. Yet these taxpayers have not recovered their money, and possibly never will.

Now I am not arguing that the state should lose any taxes imposed by law. All that is owed should be paid. But the state ought not to be unfair in dealing with its citizens. The state is like an older brother. It is strong. Its word is law. Therefore it ought to deal gently and fairly with those who must bow to its will. In reference to the matter of taxes, when the imposition is doubtful under the statute, or when it appears that no tax is imposed, but there is a possibility that the courts might find that liability exists, I contend that some agent of the state should be empowered to make an authoritative interpretation, so far as to protect the citizen against punishment for his honest error.

Would it not be just that in the situation mentioned, the citizen, or the collecting officer, be authorized to obtain a deliberate opinion from some designated official, such as the Attorney General, which would have some force in it? If the state's legal adviser says there is liability, then let the citizen pay, or take the risk. But if the state's own officer, employed for the purpose, concludes that the tax is not owed, then let the citizen be safe in abiding by that opinion. Let him know that if the opinion is afterwards held erroneous, his only liability will be the tax

which is due with lawful interest; not also a penalty, which may in some cases be destructive of the taxpayer's business. By such an arrangement, the state loses nothing which it is justly entitled to, but it refrains from crushing an innocent and honest citizen by its superior power.

The same relief is required in the interest of equity and good conscience, more clearly I think, to protect honest officials. The state employs an officer. It imposes upon him important and intricate duties, possibly involving the handling of large sums of public money. It requires him to make a bond for the faithful performance of these duties. Incidentally, it probably pays him a small, almost inadequate, salary. His duties are specified in the code. Some of them are clear. Others are so doubtful under peculiar facts which may arise, that no lawyer can be certain what they are until the court has spoken. Yet the official must act. Two courses may be open. He must pursue one, and if the one adopted proves erroneous, he may be subjected to heavy penalties, public condemnation, and even criminal punishment. It is true that in some instances, as will be shown, his good faith may be a protection. But that cloak, being one of common law as applied by our courts, is not the positive and clear protection to which the honest official is entitled.

The state hires him. Why should not the state advise him when he is in doubt about his duties? I do not mean to say that the state, in advising him through a proper official, should usurp the function of the courts. The final decision as to the law, including the duties of officers, must rest with the judiciary. But the state's advice should protect him from punishment or penalty when he has acted. Section 3663 of the Code of 1930 provides that the Attorney General shall give written opinions to officers concerning their duties and the law. But what does the opinion amount to under the law? Nothing more than the advice of any other lawyer. It leaves the officer still under the necessity of determining at his own risk whether the law as construed by the Attorney General is correct as it may be construed by the courts. Of course, the opinion of that officer under the statute is good so far as it goes, and it may be proof of good faith on the part of the acting officer, but that is all. I say that when an officer's duty is not clear, he is entitled to be advised by the state what he shall do, and when he follows that advice he should be safe.

To illustrate the necessity of some protection for the public official I think of two recent instances which have come to my attention. One public official was confronted with the necessity of determining what his duty was with reference to particular circumstances involving the handling of certain public funds. A written opinion of the Attorney General construed the law and advised the proper course of procedure. He accordingly followed this advice in entire good faith. Incidentally, he had no personal interest in any of the funds, but the question was merely how he should dispose of them according to law. Afterwards, he was

sued on his official bond for thousands of dollars in penalties, and he was faced with the possibility of financial ruin because of having honestly endeavored to perform a duty imposed upon him, on the theory that the Attorney General's opinion was erroneous. Another instance comes to my mind in connection with a matter which was recently in the public newspapers. Sheriffs of the state were confronted with the question of postponing the tax sale date in the best interests of the state. Opinions were expressed both to the effect that they could do so and that such action would lead to liability on their bonds.

It is my contention that when a public official meets with a situation of this type there should be some way fixed by law in which he could apply to a proper officer representing the state for advice as to his course of procedure, and that if he should follow such advice lawfully given, then he should not be subject to any penalty or punishment or condemnation for having so acted. A statute of this kind could be framed somewhat in this language: "If any public official shall, after having placed the facts before the Attorney General, act in accordance with the written opinion of the Attorney General as to his duty, then he shall not thereafter be held liable for any penalties or for the payment of any money under his official bond on account of those acts which he performed in accordance with the Attorney General's opinion, except that in any instance where said public official shall have received money as fees, compensation or otherwise in accordance with such opinion, if such opinion shall thereafter be held to be erroneous, then he shall be liable to repay the amount received by him with lawful interest."

The desired result has been accomplished or approached in some jurisdictions by means of statutes providing for advisory opinions by the courts where constitutions have been modified to permit such statutes, and by declaratory judgment statutes.

It seems that in England advisory opinions have been rendered by the courts in some cases since a very early date. Such an opinion was first requested of the Judges apparently in the reign of Henry VI, and in later years the practice became more frequent. But these opinions are not judicial in character; they are merely advisory and normally can constitute no more protection to an officer than does our present statutory opinion of the Attorney General. The English Judges, in answering an inquiry made by George II, took occasion to say that if the matter should come before them judicially they would be ready to change their opinions for sufficient reasons. In the states, of course, advisory opinions cannot be required under the usual constitution because of the requirement that the three departments of government shall be kept separate and distinct. However, even where they are made use of, they cannot be judicially binding and constitute no real protection to an official unless the statute so provides.

The so-called declaratory judgment statutes seem to be very beneficial in effect where they have been adopted. Under such

statutes parties are permitted to determine their rights and duties through access to the courts before any actual liability has been incurred by conduct. The Kansas statute (Acts of 1921, ch. 168) illustrates the purpose and breadth of the declaratory judgment acts. Section 1 provides:

"In cases of actual controversy, courts of record within the scope of their respective jurisdictions shall have power to make binding adjudications of right, whether or not consequential relief is, or at the time could be, claimed, and no action or proceeding shall be open to objection on the ground that a judgment or order merely declaratory of right is prayed for. Controversies involving the interpretation of deeds, wills, other instruments of writing, statutes, municipal ordinances, and other governmental regulations, may be so determined and this enumeration does not exclude other instances of actual antagonistic assertion and denial of right."

Section 6 provides: "This act is declared to be remedial: its purpose is to afford relief from the uncertainty and insecurity, attendant upon controversies over legal rights, without requiring one of the parties interested so to invade the rights asserted by the other as to entitle him to maintain an ordinary action therefor; and it is to be liberally interpreted and administered with a view to making the courts more serviceable to the people."

These statutes have in some instances been held unconstitutional because conferring powers on the courts which are not judicial, but it has also been held that they are constitutional where the statute, as in the case of the Kansas Act, limits its operation to "cases of actual controversy." In the case of Kansas vs. Grove (19 A. L. R. 1116), the act was held constitutional. The court very aptly showed the practical importance of such a statute when it said: "It is hardly conceivable that any fundamental principle of our Government beyond legislative control prevents two disputants, each of whom believes in the rightfulness of his own claim but each of whom wishes to abide by the law whatever it may be determined to be, from obtaining an adjudication of their controversy in the courts without one or the other first doing something that is illegal (in the case of the present defendant-criminal) if he is mistaken in his view of the law."

It is not my purpose at this time to make an argument in favor of declaratory judgments. They do seem to be based upon ideas of practical justice, but insofar as the relation between the State and its citizens or its officials is concerned the same beneficial result could be obtained without increasing the burdens of the courts. All that is necessary is to declare that opinions of the Attorney General, or other lawful officer, formally given in accordance with the duties of his office, shall constitute a protection. It may be thought that such a rule would make it possible for unlawful things to be done in accordance with ill-advised or hastily rendered opinions. The answer to this is that the state must place trust and confidence in its officials, and there is no

reason to expect that the state's legal advisers will render other than honest services. As a matter of fact, the Attorney General is a constitutional officer, who at common law had broad powers, as the chief law officer of the Crown. However, if it were deemed necessary, special safeguards could be placed around the rendering of opinions which officials expected to make use of as a protection against penalties or personal liability. For example, it might be provided that certain publicity should be given to opinions of this kind in order that, if they are erroneous, public opinion, especially that of the well informed lawyers of the state, might criticise them. It is undoubtedly true that publicity is perhaps the most sure protection against improper conduct or careless or deficient performance of duty. The legislature has long since recognized the protective power of publicity, for section 2910 of the Code of 1930 provides that if any public officer required to make any report or settlement with another officer shall fail to make such report or settlement within ten days after it is due, the fact of such default shall be published in any newspaper published in the County of the defaulter's residence. I have never heard of an instance in which this statute was put into effect, but nevertheless it gives recognition to a very important means of obtaining a proper performance of duty.

In the absence of any statute, our court has held that under the common law some officials are protected from personal liability in instances where they act in good faith; but this protection is not sufficient because it does not apply to all officers, and because being a matter of common law the official cannot be certain that his particular case will come within the protection of the rule.

The case of National Surety Company vs. Miller (124 So. 251) is a very interesting decision which applies this protective rule. In that case the members of a public board had authorized expenditures of public funds which were unlawful under section 96 of the Constitution. In authorizing such expenditures the members of the board seem to have been acting under unusual circumstances and where their action seems to have been of practical necessity. As a matter of fact, they had been advised by their own attorneys and by the Attorney General that they had power to make the expenditures, although actually they did not possess such power. The court stated that a "public board and the members thereof so long as they act in good faith and from honest motives and there is no express statute making them liable, are to be protected from the consequences of an erroneous decision when the matter upon which the action was taken was one belonging to the general class of cases within the cognizance of said board"; and held that this principle applies to all boards which exercise semi-judicial or quasi-judicial powers. There was a vigorous dissent in this case in which the majority opinion was attacked as unsound in the application of the rule. I shall not attempt to argue one way or the other on the soundness of the

decision; but the case does disclose that our court has, to a considerable extent, applied the common law in such a way as to approach the equitable result for which I am contending. It is to be noted, however, even in the language of the opinion, that if an officer is not performing a judicial function or a quasi-judicial function, or if some statute imposes liability, then the rule will not protect him regardless of his good faith or honesty and regardless of the advice of private counsel and of public officials.

Another interesting Mississippi decision which is not exactly in point here but which illustrates the necessity of protecting persons who act in accordance with opinions of public officers, rendered in the performance of their public duty, is that of State vs. Longino (67 So. 902). Prior to this case the Supreme Court had held in another that a certain act was not a violation of a certain criminal statute, but later reversed this ruling. In the period between the two decisions the defendant in this case committed the act. The Supreme Court held that where an act is made criminal by statute a defendant will be protected by a decision of the high court holding the act not criminal even thought that decision was erroneous and afterwards overruled. This decision seems eminently sound and based upon the best ideas of justice. The thought is that one who has a relationship to the state should be protected by the interpretation of its own law which has been made by the duly authorized officers of the state.

The whole principle may be summed up in the idea of a sort of estoppel against the state to punish or injure a citizen or an officer because he relied on the official interpretation of his duty or his obligation, as made by the state through a duly constituted representative.

The other type of case which I want to discuss in which the state is not fair to the citizen involves the Statute of Limitations. Section 104 of the Constitution of 1890 provides: "Statutes of limitations in civil causes shall not run against the state, or any subdivision or municipal corporation thereof."

Is it equitable and just that the provision should be so broad? I do not think so. It is perhaps wise to provide that rights belonging to the state should not be quickly cut off, in view of the fact that the state government is a great machine made up of many parts which are constantly changing and therefore the state cannot be as vigilant in ascertaining and protecting its interests as can an individual. But it is hardly necessary to preserve its rights forever. Certainly it is not fair to do so. The state is strong; it has unlimited power of taxation to distribute the burdens of government. Why then should it have such drastic protection against a mere citizen who happens to come into an adversary position with it?

A citizen acquires a piece of property. He honestly believes it belongs to him. He occupies it and improves it as his own for thirty or forty years. Then the state or a municipality pro-

ceeds against him because of some flaw in his title; and he is ousted because the statute of limitations does not apply. The result is that the individual, the mere citizen, again suffers at the hands of the powerful state. The King can do no wrong. Therefore, the helpless property holder must accept his defeat. The state in making the law, for itself and others, has seen fit to except itself from the law's operation in this respect to its own gain. And this does not appeal to one's sense of justice.

Our Court has recognized the injustice of the rule and has to a slight extent ameliorated it under common law. In Caruth vs. Gillespie (68 So. 927), it was held that a grant from a sovereign may be presumed from long-continued peaceable possession of real property accompanied by the usual acts of ownership, at least where public records which might show the grant have been destroyed. But unfortunately this doctrine can serve as a protective shield in a very restricted group of cases. Its broad principle of justice and fair dealing ought, however, by provision of law, to be extended to other cases where a citizen has acquired rights or believes he has acquired rights against the state. In other words, if the Caruth case had involved exactly the same facts, except that the court house had not burned, then probably the property holder of long standing would have been put out.

Another interesting case which illustrates the need of some kind of statute of limitations for the state is Aetna Insurance Company vs. Robertson (94 So. 7). In that instance, statutory penalties, large in amount were to be imposed. The statute of limitations of course did not apply. Three judges of the Supreme Court thought that the state was subject to the rule of laches, and that unlimited penalties as to time could not be collected. The other three judges thought otherwise. Therefore, the rule was left unsettled, although in the specific case the court was impressed with the dangerous result of allowing the state to stand unbound by any limitation whatever.

My thought is that the state ought at least to be subject to a modified statute of limitations. Let it be provided that a longer time shall be required to terminate rights belonging to the state than in the case of individuals, in order to allow for the slow movement of the state's machinery. But put some limit. If statutes of limitation are wise and beneficial at all, they are so for all persons, including the public. They are designed to quiet title and protect those who have long enjoyed and claimed properties; to end litigation and give the people, after the passage of a reasonable time, a feeling of confidence and repose. Why is such protection not just as much a matter of sound public policy when the state is on the other side as where some individual is?

Judge Calhoun paid his respects to the constitutional provision as written, in Warren County vs. Lamkin (46 So. 497), when he said that as between the state or one of its subdivisions, and an individual citizen, "courts will be disposed, if they can, to apply

the same rules that the law applies as between the humblest and most unpretentious private citizens''; and that ''the doctrine, 'Nullum tempus occurrit regi', in its enlarged scope, is the invention and one of the instruments of despotism, and has no place in free countries, if it be attempted to go beyond the point of application strictly to holdings for the public user by the people, such as streets, parks, necessary grounds for court houses, jails, public hospitals, etc.'' His language is pertinent to all cases in which citizens have direct relationships with the state. If equality under the government is just, it is right, also as between government and individual.

In discussing two classes of unfairness or unreasonableness practiced by the state as the sovereign having power to make its own laws, I have not intended to limit the principle. Many other instances could be developed in which the individual is put in an unfavorable position merely because he is dealing with a more powerful adversary than himself. But these two, which I have thought about more closely, well illustrate the situation. Neither have I intended, in suggesting modifications or changes of the present laws, to be specific in pointing out what after mature study may be advisable. But I have attempted by these things to sow in your minds, as lawyers of the state, the seeds of an idea of underlying justice, which may in the course of time, and along with the slow moving change of institutions, bear fruit in some slight change of statute or fundamental law, or some development of common law, which will tend to put the citizen on a more nearly fair plane of contact with the state.

In many instances, as I have attempted to show, the rule now is, Let the Citizen Beware. It is my hope that as the laws and institutions of our state change, as they must, the change will always be one of progress, and that as a part of that progress, we may more and more find the state saying to its citizens: ''Do not be afraid of your state. It will deal with you as you deal with each other; under the same laws; and with the same spirit of fair-dealing and justice, which courts of equity aid you to observe with respect to each other.''

BY PRESIDENT BUTLER: Mr. Lotterhos, I desire to express my appreciation for that able paper, and also, I feel sure, the appreciation of the entire Association.

The next matter on the program is the report of the Committee on Re-organization of the Bar Association. Judge Russell, are you prepared to submit that report at this time? If so, we will be glad to receive it.

(Honorable J. N. Flowers presiding.)

BY JUDGE D. M. RUSSELL: Mr. President, I think it fair that before proceeding to read the Report I make a statement, that Judge T. C. Kimbrough, of our Law School, could not be present today because of serious illness. I just received that message at the noon hour today,

and really in his stead am I reading the report at this time. The President seems to have made two mistakes in selection. According to the speaker of the forenoon, he made a mistake in selecting the speaker for that time. We really think the first selection was a mistake, and the last one was the right selection; he really got a Bishop to speak for us this morning. Just out of common courtesy President Butler named me as Chairman of this Committee, I am sure, because I happened to make the motion at the last meeting of the Association for the appointment of the Committee. But it will be remembered at that time Judge Kimbrough, who was the President, brought this matter of re-organization of our State Bar Association to our attention. He had given the matter a good deal of study at that time; since that time he has devoted more study to it, assembled the facts and data to be assembled in this report, and we are sorry he cannot be here this afternoon to lead the discussion. Mr. Clayton, who is Editor-in-Chief of the Law Journal, is present to furnish copies of the Law Journal containing this Report.

[Editor's Note: For this report see Mississippi Law Journal, May, 1931 issue, page 319.]

BY MR. FLOWERS: Judge Russell, do you move the adoption of the Report as read?

BY JUDGE RUSSELL: Mr. President, I move the adoption of the Report.

BY MR. J. T. BROWN: Mr. President, I observe that in this report that was read by Judge Russell, the suggestion was made by the Committee that the President appoint a committee of five to consider this question and to then report back to the 1932 meeting of the Bar Association. If this suggestion should be followed, or rather if this report should be adopted in its present form, as I see it, it will necessarily delay action on the proposed measure until the 1934 session of the Legislature.

Now, I move that the report as submitted by this Committee be amended so as to provide for the appointment of this Committee of five to draft this act and present it to the next session of the Legislature.

BY MR. JIGGITTS: I second the motion.

BY MR. FLOWERS: I suggest, with Judge Russell's consent, you move to amend his motion to adopt by striking out the last paragraph of the Report. This will keep the record straight, if Mr. Brown's motion will be to amend the motion of Judge Russell, with his consent, by leaving Judge Russell's motion to adopt the report with the last para-

graph stricken out. That will leave it for the Association to adopt—

BY MR. BROWN: I accept your suggestion and make that motion.

BY JUDGE RUSSELL: I accept that amendment.

BY MR. ARMISTEAD: I move to amend Judge Russell's motion with this proviso: That no lawyer in the State shall be required to join the Bar Association against his will.

On motion, duly seconded and carried, the motion of Mr. Armistead to amend was tabled.

BY MR. FLOWERS: The question submitted, when it is boiled down to one question, the question, as I understand it, that will be submitted by this motion as amended at the instance of Mr. Brown, is whether we will adopt a unified integrated bar plan. You understand, all of the details of this would come later, and would have to be worked out; but the sole issue now that you are going to vote on is whether we shall adopt what is known as the unified integrated bar plan, which is in general pretty well known. There are several provisions in one of them that are not in the others, and those objectionable ones would be eliminated. In a discussion last night you will recall that several features of some of those plans were objected to, and we all agreed that they should be eliminated. But that is the sole question we are voting on.

All in favor of the motion will stand; all opposed to the motion will stand. The motion is carried.

BY MR. J. T. BROWN: I now move that a Committee of five be appointed by the President to draft a bill to substantially put into effect, or to put into effect, the unified bar plan, substantially in the form set out in this report and present it to the next session of the State Legislature.

BY MR. FLOWERS: It is necessarily true that there are some features of this plan that every member of the Bar would object to, and it seems to me they ought to be given some opportunity to express themselves on those features. What do you think of the suggestion of having a draft or outline made and presented to the Association tomorrow?

BY MR. JACOBSON: I move that a tentative draft be made and presented to the Association tomorrow for discussion.

BY MR. BROWN: I will accept that as an amendment, that the Committee submit a tentative proposed draft to the morning session of this Association tomorrow:

BY JUDGE W. H. POWELL: I second that motion.

BY MR. FLOWERS: You have heard the motion. All in favor of the motion will say AYE; those opposed NO. The motion is carried.

Upon motion, duly seconded and carried, the Association adjourned until 9:30 o'clock a. m., on Thursday, April 30, 1931.

SECOND DAY
(Morning Session)

April 30, 1931.

BY PRESIDENT BUTLER: The Association will please come to order. The program as printed had on it for this morning the first thing, an address by Mr. Julian Alexander; but we have re-arranged the program a little, as announced at the Banquet last night, and the first thing on the program this morning is the report of the Special Grievance Committee relating to disbarment proceedings. But before calling for that report, I would like to have Mr. Jiggetts read some telegrams.

Gulfport, Miss., April 30, 1931.

Hon. Chas. B. Cameron,
State Bar Association, Lamar Hotel, Meridian, Miss.

"The officials and people of the city of Gulfport extend to the State Bar Association a hearty invitation to hold your next convention here. The convention and recreational facilities of Gulfport and its hotels are unexcelled. Your Association would be pleased with a convention here."

J. W. MILNER, Mayor, City of Gulfport.

Gulfport, Miss., April 30, 1931.

Hon. Chas. B. Cameron,
State Bar Association, Lamar Hotel, Meridian, Miss.

"The Chamber of Commerce and all its members invite your society to hold its next convention in Gulfport. The facilities of our city and its hotels for handling conventions, coupled with the exceptional recreational features in this part of the Mississippi coast, are unexcelled and we are certain your next convention would be the best you have ever held."

R. O. BICKERSTAFF, President, Gulfport Chamber of Commerce.

Natchez, Miss., April 30, 1931.

Hon. George Butler, care of
Mississippi Bar Association, Meridian, Miss.

"The Natchez Service Club, a local civic body composed of professional and business men, representatives of the community, respectfully urge you to consider our city for your next convention. Assuring you of our endeavor to afford you pleasant entertainment and a suitable place for your convention meetings, we are cardially,"

R. L. MILLETTE, Secy.

Natchez, Miss., April 30, 1931.

Hon. George Butler, President,
Mississippi Bar Association, Meridian, Miss.

"Rotary Club of Natchez bids you hold your next annual meeting here."

ROTARY CLUB OF NATCHEZ.

Vicksburg, Miss., April 28, 1931.

Hon. George Butler, President,
Mississippi State Bar Assn., Lamar Hotel, Meridian, Miss.
"Vicksburg extends to the Mississippi State Bar Association a cordial invitation to hold their 1932 convention in our city."
CHARLES H. KOESTLER, President, Vicksburg Rotary.

Vicksburg, Miss., April 28, 1931.

Hon. George Butler, President,
Mississippi State Bar Assn., Lamar Hotel, Meridian, Miss.
"As mayor of the city of Vicksburg and on behalf of its citizens I wish to extend a hearty and cordial invitation to hold your next annual meeting in this city."
W. J. HOSSLEY, Mayor.

Vicksburg, Miss., April 28, 1931.

Hon. George Butler, President,
Mississippi State Bar Assn., Lamar Hotel, Meridian, Miss.
"On behalf of the business interests of this city we extend through you to the members of the Mississippi State Bar Association in convention assembled a cordial invitation to hold your next annual meeting in our city. Our hotel facilities, places of amusement and points of historic and other interest, will assure to each member maximum comfort and pleasure."
VICKSBURG CHAMBER OF COMMERCE,
By H. P. GRANT, Chairman Convention Committee.

Jackson, Miss., April 29, 1931.

George Butler, President,
Mississippi Bar Association, Lamar Hotel, Meridian, Miss.
"The Jackson Chamber of Commerce extends the Mississippi Bar Association a cordial invitation to hold its nineteen thirty-two meeting in this city. Should the Association accept this invitation the convention bureau of the Chamber of Commerce will do everything in its power to make the meeting a success."
E. D. KENNA.

Chattanooga, Tenn., April 29, 1931.

Hon. George Butler, President,
Mississippi Bar Association, Meridian, Miss.
"Regret exceedingly can't attend meeting Bar Association."
W. CALVIN WELLS.

Jackson, Miss., April 29, 1931.

George Butler, President,
Mississippi Bar Association, Lamar Hotel, Meridian, Miss.
"The Jackson City Commissioners join the Chamber of Commerce in inviting your convention to meet in Jackson in nineteen thirty-two. We will be glad to co-operate with your local members to make this meeting a success if you accept our invitation.
W. A. SCOTT, Mayor.

Gulfport, Miss., April 30, 1931.

Hon. Chas. B. Cameron,
State Bar Association, Lamar Hotel, Meridian, Miss.
"Entire Markham Hotel organization wants State Bar Association back with them next year."
Management, HOTEL MARKHAM.

Gulfport, Miss., April 30, 1931.

Hon. Chas. B. Cameron,
State Bar Association, Lamar Hotel, Meridian, Miss.
"May the Kiwanians of Gulfport take this opportunity to extend to you and your Association a hearty invitation to hold your next convention in Gulfport? The convention and recreation facilities of our city and its hotels are known to be the best in the state and we feel sure you will make no mistake in choosing Gulfport for your next convention."
A. S. HOPKINS, President Gulfport Kiwanis Club.

Gulfport, Miss., April 30, 1931.

Hon. Chas. B. Cameron,
State Bar Association, Lamar Hotel, Meridian, Miss.

"The Rotary Club and all its members extend to your Association a most cordial invitation to hold your next convention in Gulfport. The convention facilities and recreational features and hotel accommodations of our city are unsurpassed and we are sure that your Association would be highly pleased with a convention here."

L. P. SWEATT, President Gulfport Rotary Club.

BY PRESIDENT BUTLER: The next order of business is the report of the Special Grievance Committee.

BY JUDGE JEFF TRULY: Mr. President, and Gentlemen of the Bar Association: Now, that the cases which were entrusted to this Committee are actually before the Court, we were not at all certain as to the extent of the report that the Bar Association desired. Consequently, we have contented ourselves, so far as the written report is concerned, by simply making a report of progress, leaving it to the membership of the Association as to whether they desire any elaboration. Should they do so, all that will be necessary will be to signify a request to the Chairman, and he or any member of the Committee will be more than pleased to give a more elaborate statement, going into any degree of detail that you wish, remembering, however, that if you do call upon the Chairman to go into any elaboration, the quotation which is familiar to you all, about the "Babbling Brook of Tennyson," the Chairman being of that character, because after he starts he babbles for a long time.

To the Honorable Bar Association of the State of Mississippi:

Your Special Grievance Committee, appointed to present to the courts and prosecute the disbarment proceedings against Carl Marshall, Lester Franklin, J. H. Howie, R. E. Steen, J. C. Walker and R. A. Boutwell, beg leave to report:

After the time necessarily consumed in individually studying the testimony given before the legislative committees, your Committee had prepared by its members the requisite petitions for disbarment. After repeated conferences, it was decided that the Supreme Court of the State was the proper tribunal to assume original jurisdiction of these causes. Consquently, the petitions were filed with that tribunal.

Each of the respondents who answered either denied or doubted the jurisdiction of the Court, or challenged it in other ways; each of them asked that the causes against them be either dismissed or transferred by the Court to other tribunals. Upon this point your Committee briefed the case and presented its argument to the Supreme Court. Much of the credit in the preparation of this brief is due to Mr. Louis M. Jiggitts, the efficient Secretary of your Association.

Your Committee is glad to report that after mature consideration the Supreme Court overruled the motions and pleas of the respondents and assumed jurisdiction. Whereupon, orders were issued requiring the defendants to answer. These answers were in due season filed and are now before the Supreme Court; the causes are, therefore, ready for trial, and your Committee takes pleasure in reporting that the cause of the State Bar Association is now in such condition that the trial may proceed whenever so directed by the Supreme Court.

In this connection, we will state that one of the respondents, Mr. S. A.

Latham, is no longer a resident of the State and has not yet made answer to the petition filed against him. The question raised by this fact is before the Committee for consideration at this time.

It is also necessary to state that no proceeding was instituted against Boutwell, he having before the petition was prepared been already disbarred from practice in this State by one or more courts having jurisdiction of the person and cause.

Your Committee begs further to report that the resolution under which they were appointed also provided a consideration of the charges made against Rush H. Knox and Cecil E. Inman, action in these cases, however, to be taken in connection with the approval of the President, the Vice President, the Secretary and Executive Committee of your Association. At the proper time under the resolution referred to and after the cases pending in court against said Knox and Inman had been finally disposed of, this joint committee after consultation and conference unanimously decided that the disbarment proceedings should be instituted against the two parties named. These petitions are now in process of preparation and in due season will be filed in the Supreme Court.

This brief and formal report is filed simply that the Association may be advised of present conditions, and is merely a report of progress made on behalf of the Committee.

Respectfully submitted,

JEFF TRULY, Chairman.

BY MR. HERBERT HOLMES: Mr. President, I move the Report of the Committee be received, and that they be continued.

BY MR. A. T. STOVALL: I second the motion.

BY PRESIDENT BUTLER: You have heard the motion by Mr. Holmes, seconded by Mr. Stovall. Is there any discussion of that report? Are you ready for the question? All in favor of this motion will let it be known by saying AYE; those opposed NO. The motion is carried, and it is so ordered.

BY JUDGE JEFF TRULY: Mr. President, after expressing the thanks of the Committee for the continuation of the confidence of the Association in the Committee, as president of your Committee, I desire to call to the attention of this body and will in due time make a motion to the effect that under the procedure, as I understand, there will be an election of the officers of the Association at this time, and that, of course, will probably result in changing the personnel to some extent of the Executive Committee, and the officers of the Bar Association who now constitute the other committee who are acting with this Committee with reference to the prosecution of the cases against Knox and Inman, in those prosecutions necessarily, as the main pertinent responsibility was placed upon the executive officers, the President, Vice-President, the Secretary, and your existing Executive Committee, they are better advised of the facts than are the other members of that committee; therefore, in order that all of the cases may be prosecuted as they should be I, with the authority of the Committee, and in order that there may be no hiatus in the prosecution,

move that without reference to how any change of personnel in the officers of the Association, that those members of the Committee who are now acting with us be also continued in office.

BY MR. TRAVIS: I second the motion.

BY MR. R. E. WILBOURN: Mr. Butler has asked me to put that motion, he being one of the officers. You have heard the motion made by Judge Truly. All in favor of that motion will let it be known by saying AYE; those opposed NO. The motion is carried.

BY PRESIDENT BUTLER: While it is not next in order on the printed program, still, we are dealing with the subject-matter, and I think it appropriate that the report of the regular Grievance Committee should be received at this time. So, I will ask Mr. Jiggitts to read that report.

BY SECRETARY JIGGITTS: This is the report of the regular Grievance Committee, and inasmuch as it names one person specifically and recommends disbarment, I will ask you to listen carefully.

REPORT OF GRIEVANCE COMMITTEE

We beg to report that complaints have been made to us against a large number of lawyers of the state. Quite a few of these complaints were passed on to us by the former Grievance Committee, but a large number of complaints have been made direct to us.

Many of these complaints, in fact, all of them, with one or two exceptions, were made by forwarding agencies, and consisted, in the main, of alleged failure to report progress made in making collections, or to account for court costs advanced, or, in some instances, claims for failure to account for collections made on the account.

These complaints were always made with the request that the Bar Association or Grievance Committee write the delinquent attorney, and thus aid the forwarder to make the collection.

At the outset of this administration, we adopted the policy to act only upon charges duly and regularly made and proof furnished to support the charges, and in no wise to constitute ourselves a collecting agency. This policy was adopted for the very obvious reason we did not conceive it to be the province of the Grievance Committee to render any legal service to any agency or attorney in handling any legal matters in the state. And again, it was thought wise to pursue this policy, in view of the large number of complaints made and in view of the further fact that the Grievance Committee is composed of active practising attorneys, without funds furnished to investigate or prosecute delinquent attorneys. We have consistently advised those making complaints that the Grievance Committee would only consider complaints properly made out and filed, with the promise on the part of the party making the complaint that proof would be furnished to support the charges in event any proceedings were filed against the delinquent attorney.

Following this policy, we have not attempted to adjust the differences between the forwarding agencies and the attorneys, but have in each instance requested that proper complaints be filed with us, with the assurance that proof would be furnished if required. In most instances, this has not been done, and the complaint has not been further considered by us.

However, a few complaints have been duly made, and some proof offered to support the charges. It has been difficult to determine what should be recommended in these cases, but we are not convinced that formal charges should be made against these attorneys before this Bar Association.

We suggest that the attention of all persons or agencies presenting these complaints be referred to Section 3705, Mississippi Code of 1930, which provides for summary proceedings by motion against attorneys who are charged with failing to pay over money collected for their clients. Such a motion would develop the facts and the punishment provided in case the attorney was shown to be delinquent would be ample.

We regret to report that complaint has been made to us that H. L. Austin, attorney-at-law, Jackson, Mississippi, was charged with petit larceny in the Justice Court of Leake County, Mississippi, at Carthage, and upon arraignment therefor, entered a plea of guilty, and was fined $5.00 and costs, which he paid. We are advised that the larceny consisted in the taking of the two-volume 1930 Mississippi Code, the property of the Sheriff of Leake County. We attach hereto certified copy of Justice of the Peace docket, showing the proceedings before the Justice Court in this matter. We submit this case to you for such action as this Association may deem appropriate.

Respectfully submitted,

GEO. R. NOBLES, Chairman.

Copy of the record of the proceedings before W. W. Burnett, a justice of the peace, of Leake County, in District No. 2, of said county, in the case therein set forth, to-wit:

THE STATE OF MISSISSIPPI,

vs.

H. L. AUSTIN.

Affidavit made .....day of Nov., 1930, charging defendant H. L. Austin with Petit Larceny. Warrant for arrest of H. L. Austin defendant issued..... day of Nov., 1931. Same turned over to ..... and returned with the following returns endorsed thereon..... The following witnesses subpoenaed: ..... Disposition of the case. This day this cause came on for hearing and the defendant appearing and by counsel and the County Attorney who prosecutes for the State.

The defendant, H. L. Austin, being arraigned in open court upon an affidavit charging him, the said Austin, with petit larceny, entered a plea of guilty. Whereupon the court passed the following sentence on the defendant: Fine of $5.00 and all cost paid.

Nov. 18, 1930. W. W. BURNETT.

State of Mississippi, Leake County.

I, W. W. Burnett, a justice of the peace of said county, certify that the foregoing is a copy of the records of the proceedings before me, in the case stated therein as appears on my docket.

Given under my hand this 10th day of April, 1931.

W. W. BURNETT, J. P.

BY PRESIDENT BUTLER: You have heard the reading of this report. What will you do with it?

BY MR. STOVALL: I move that portion of it in regard to some lawyer in Jackson be referred to the Special Committee.

BY JUDGE TRULY: Mr. President, if I may have the attention of the Association for a few moments, or it may be longer, I think this a most appropriate time in considering the report of the Grievance Committee, for the Bar of the State to arouse itself a little as to what the present attitude of the people and the Press of the State is toward the Bar.

For the past many months there has apparently been a deliberate attempt through the columns of some of the State

Press to malign the Bar as a whole, and to inculcate the idea that disregard of ethics, and dereliction of duty is the general rule of the lawyers of the State applicable to the vast majority thereof. There are two distinct lines of thought which seem to be prevalent. One is, that every lawyer is a crook, and there have been assertions in some of the newspapers that such is the opinion of some of our public people and some of those connected with the Press. The other line of thought is—and the idea seems to be widely extended—that the State Bar Association is a collecting agency for collecting agencies. Neither one of these propositions, I submit to you, my brethren, is true. The State Bar Association is not a collecting agency. The out of State collecting agencies, having exhausted their own methods, send trivial and worthless claims to some lawyer and then demand his undivided attention to the handling of such claims. Then, if the lawyer so selected fails to answer promptly, or to give immediate attention at the expense of other more important matters, claim of negligence and violation of ethics is filed by the collecting agency before the Grievance Committee of the Bar Association. Such action is neither proper, just or necessary. In every case where a lawyer has collected a claim for one of these out-of-State collecting agencies our Code affords a plain and adequate remedy so that due redress can be made if the parties complaining are willing to stand up to what they claim.

All that they need do is to file a motion in the Circuit Court, and the lawyer will either pay over the money if any has been collected, or be disbarred then and there. Consequently, I regard as trivial and worthy of little consideration such complaints for the reason that every lawyer has a right to reject any collecting business tendered him, and is under no obligation of duty or ethics to waste his time in futile correspondence in a vain endeavor to collect some trivial amount which the forwarding agency itself knows to be worthless. It is true, of course, that many lawyers, through lack of attention, through carelessness, and, I fear, sometimes through actual dereliction of duty, do not promptly return every claim that reaches their office. But this negligence or omission of duty does not justify the wide-spread and subtle attack which is being disseminated against the standing of the lawyers as a profession.

However, when any such case as that reaches the public knowledge immediately a hue and cry is raised by the disgruntled and finds lodgment in the columns of the Press that the code of ethics of the Bar Association is a cobweb

through which the great people break in safety, and which ignores the little people as being insignificant.

My fellow citizens, I want to say that now in a crucial time in the history of the Bar Association of Mississippi to take a stand for what is right. And it devolves, to some extent at least, upon we older men to live up to the high ideals of the professional standard of a lawyer. We who have passed over the peak of our physical existence, we whose faces are now gilded with the western sun of life, that are marching down the declivity to a golden sunset ought by both precept and example show the younger men who in a few brief days will take our place that they belong to the greatest profession, productive of more good than any other in the whole list of learned professions.

It is insinuated in the Press that the lawyers of the State are responsible for the financial troubles of the State. That the lawyers of the State grow fat upon factionalism. That the lawyers of the State foment strife and breed friction between man and man so that they may profit a little to the extent of a fee they earn. It is a lie. They do not do it.

In order that we might have some idea about these things I want the Association, if the President will give me time, to let me from my own knowledge—not from legend, not from history but from my own knowledge—speak to you for a few minutes of some of the ornaments who have adorned the Profession of Law in the State of Mississippi. I have lived and practiced law for over forty years. Treading a narrow path and upon a much humbler plane, I have walked with giants in my profession. I can look back and of personal knowledge name to you and tell you of the great men who have been, just as you younger men are now, at one time tyros in the profession, and yet, of their own native ability and manhood rose to be the recognized leaders not only of Mississippi, but of the Bar of the whole U. S. To whom shall I refer first, and I refer to no man whom I did not personally know, whose acquaintance and, in most instances, friendship I did not enjoy. Because it is asserted that oratory in Mississippi is a lost art, which is not true, shall I go back and tell you of the great orator of Mississippi who, upon the floor of the Senate of the United States defended the rights of the South in a way that no man could answer? This great man for whom this Hotel is named, the greatest orator ever produced—L. Q. C. Lamar—who towered pre-eminently as a leader of men in time of war, as a great orator of the Senate, and a great jurist of the Supreme Court of the United States, who led the Senate by his eloquence and dominated the Court with his learning.

Shall I go a step further and leaving oratory go to the substantial strength of principle and legal ability which, perhaps with one exception, has not been equalled in Mississippi? Stern, indomitable, abrupt, yet sound to the core, who upon the floor of the Senate so clearly demonstrated the right and power of Mississippi to enact such electoral provisions as its peculiar conditions demanded, that opposition fell defeated by the wayside and the mendacious malignity of the South haters was defeated and the blasphemous tongue of Henry Cabot Lodge and his ilk was silenced—James Z. George. This great commoner who by the force of his logic and his unanswerable constitutional argument struck from the rights of freeman the shackles of oppression and established White Supremacy forever and aye, in the great commonwealth of Mississippi.

I could go further and tell you of the great lawyers who have lived in every section, in every County, of this State whom I have known personally. Names that perhaps have passed away but in their era shed luster on our profession. Who in this audience has ever seen—if no lawyer has, he will never now hear the equal—the dramatic oratorical duel which took place between that eloquent teacher and exemplar of the young men of the State—Lieutenant Governor Shands—and that greatest constitutional lawyer and master of diction of his entire day and generation—Edward Mayes—before that State Senate. And yet it is stated that these men were members of a degraded profession! A degraded profession. Perish the thought!

I could tell you of the gallant Walthall, of the peerless Calhoun, of Meridian's own brilliant Fewell, Wood and Green Huddleston. I could name them by the score from every section of Mississippi. Glorious names troop to the memory and would, if time permitted, fall trippingly from the tongue. But, my fellow citizens, I refer you to these simply that you younger men may not believe that it is true that your profession is a degraded money grubbing trade. Remember, you are Lawyers.

Fellow lawyers, I pray you to remember the beams of glory that come from the past, that radiate the present, and point out the path of duty for you younger men in the future. Follow your leaders. The lawyers of Mississippi will always stand as they have stood, to my knowledge, for fifty years, ahead or abreast of any Bar, in any State, anywhere.

A degraded profession—the law! It ranks above them all. It ranks above the ministry. Because the minister only points the way to the eternal future, strengthens the faith

and revives the hope of a blissful immortality. The lawyer soothes the troubled mind and brings solace to the man grieving over the loved ones soon to be left. Eases the dying by the assurance that the widow and orphans will receive the guidance of a faithful hand.

Better and higher than the medical profession. The doctor ministers only to the sick and those in physical trouble. To the lawyer comes the man who is sick financially; comes the man who is sick physically; comes the man who is sick morally—not for escape, but for advice and correction.

Better and higher than the teacher. The teacher necessarily instructs only the young. The faithful lawyer by daily walk and conversation teaches both young and old how honestly to live and how to assist in the upbuilding of the community in which his lot is cast.

A degraded profession! Better by far and more far reaching in its influence than is the Press of a State, often swayed itself by factionalism or personal or political desires. But they say the lawyers do this, and that, and the other. Yes, lawyers seeking the excitement and distraction necessary to a keen mind are often guilty of social peccadillos. They frequently play Auction or Poker, and sometimes with associates of whom they should be ashamed. They lose sometimes, but when they give a check for the losses the checks are paid. Some lawyers unfortunately take a drink occasionally. Yes, and probably buy the whiskey that the Kibitzers so avidly consume.

Save only the Heaven sent relationship of mother, there is no class to which the legal profession need doff the cap of obeisance. But to the mother all must bow, for 'twas at her knee we first heard and with prattling tongue repeated the first lessons of rightful living, and there first imbibed the guiding principles of honor and truth.

It behooves the profession of Mississippi today to stand firm for everything that is right, and spurn everything that is wrong. Away with the demagogic, time serving, vote seeking judge—that thing which should never have been born. Away with that judge who will under any circumstance fail to stand firmly for the right, and decree justice to each litigant, whether he be rich or poor, powerful or humble.

Banish and ostracize the fawning and sycophantic lawyer who boasts of being a friend of the court, and desires to pose as having an "inside pull" with the judge. Who attempts to seek the chamber of the judge through an alley and by a back stairway, oblivious of the fact that efforts

in this regard not only cast suspicion upon the judge but brands himself as being unworthy the profession to which he is a disgrace. With all the fervor of my soul I resent the suggestion that any lawyer should or does have any private influence with a judge, who does not himself disgrace the ermine.

The judiciary of the State of Mississippi, with rare exceptions, is above reproach, and any suggestion of outside interference should not be tolerated. Do they make errors? Why, certainly! They have decided against me frequently. But, taken as a whole, they are just, blameless and above reproach.

And so I say, stand firm. You are not only an equal but a superior class of people. And I want you, the older men, to rally now to the defense of the profession and to assist in protecting its reputation. We are the representatives of the legal profession of the State of Mississippi—the leading profession.

First in charity: No call of charity but what is headed by a lawyer when it is necessary to relieve distress.

First in humanity: No class or profession of people ever equaled the lawyers in being willing to help the common cause of the people at large.

First in erudition: The higher the standard of the legal profession the better it is for the people whom they serve.

First in leadership yielded to them by virtue of their profession and merited by their manhood and high standards of conduct.

Finally: First in patriotism: When the bugle sounds war, the lawyers respond. When the bugle sings peace or truce, the lawyers help the people regain their position, restore their fortunes, protect their private and civil rights.

I glory in my profession, and I glory in the fact that there is a very small percentage of the profession that is subject to criticism of any kind. I thank God for it, and I want you, and I pray you, for the sake of these younger men, to stand firm to the principles of rectitude and right.

The Bar of the State of Mississippi: Its glory in the past: Its protection in the present: Its hope for the future.

BY JUDGE W. H. POWELL: Mr. President, that address of Judge Truly, he has illustrated in his own noble person the truthfulness of his remark that oratory is not dead. I heartily concur and sympathize, as one of the younger members of the Bar, with what he has said; and I want to move the Association that Judge Truly be appointed a Committee of One to draft resolutions carrying

out his idea and embodying the sentiments of this Convention repelling the infamous charges of some laymen and some newspapers that all lawyers, or a majority of them, are thieves and incompetent to administer the affairs of this government. I call upon you gentlemen to second that motion and have the President of this Association to appoint him as a committee of one to put in writing and submit to this Association the ideas he has stated, so we can adopt them, and let it go forth to the world that we stand with him as one in denunciation of the infamous charges that have been lately made by some newspapers and some people.

BY JUDGE JEFF TRULY: I thank my young friend very much for his agreement with one of the older members of the Bar, but I wish to tell him that I have adopted Mr. Louis Jiggitts to do all my writing.

BY MR. JIGGITTS: I want to second the motion.

BY MR. R. L. DENT: I think that is putting a rather onerous duty on Judge Truly. I move that this Association request the Reporter of this Association to copy Judge Truly's address at the earliest possible time and forward it to the principal newspapers of the State, so that it may be given to the public, and particularly those newspapers who have slandered the Bar, so this erroneous impression may be corrected.

BY JUDGE W. H. POWELL: I want him to draft this resolution. I will amend my motion by saying he can appoint as many secretaries as he desires.

BY MR. HANUN GARDNER: Will not his remarks be copied in the next report of the organization? That will serve the purpose.

BY JUDGE W. H. POWELL: I want this Association to go on record as endorsing what he said.

BY PRESIDENT BUTLER: Cannot we get at it this way and satisfy every one. Let someone make a motion that this Association go on record as approving and endorsing the sentiments expressed by Judge Truly in his wonderful address, and then authorize the Secretary to get a copy of that address and give it to the public?

BY MR. E. L. DENT: I make that motion as indicated by the President.

BY JUDGE W. H. POWELL: I will accept that motion.

BY MR. JIGGITTS: I second that motion.

BY PRESIDENT BUTLER: Gentlemen, you have heard the motion. What will you do with it? All in favor of that motion will stand; all opposed will stand. The motion is unanimously adopted.

BY JUDGE JEFF TRULY: I thank you gentlemen so much for this expression.

BY MR. HANUN GARDNER: I make a motion that a special committee be appointed to prefer charges against Mr. Austin.

BY PRESIDENT BUTLER: The report of the Committee concludes by stating "We submit this case to you for such action as this Association may deem appropriate."

BY MR. BANKS: There was a motion, seconded, that charges against Mr. Austin be referred to the present Grievance Committee. I don't think that motion has been put.

BY PRESIDENT BUTLER: I am going to request that that onerous duty be not placed on this special Committee.

BY MR. HANUN GARDNER: I made a motion that a special committee be appointed to draft the proper charges against Mr. Austin. I will enlarge the motion, and let it be to receive the report and to appoint a committee of three to prefer those charges.

BY JUDGE W. H. POTTER: I second the motion.

BY PRESIDENT BUTLER: You have heard the motion, that the report be received and that the incoming President appoint a committee of three to prefer and prosecute charges against Mr. H. L. Austin. Are you ready for the question?

BY MR. J. A. CUNNINGHAM: I wish to offer an amendment, that the report be received and the Committee be directed to go forward with the duties incumbent upon them. Let the report be received, and they be directed to go forward with the work.

BY PRESIDENT BUTLER: Do I understand you to mean this Grievance Committee to be appointed by the President?

BY MR. J. A. CUNNINGHAM: No, sir. You have to receive the report of the standing committee.

BY MR. J. T. BROWN: The gentleman's motion is out of order, because that committee will of necessity die with the adjournment of this meeting. You will have to have a special committee to carry out the suggestions contained in that report.

BY PRESIDENT BUTLER: Let me make this suggestion, please, and see if it will not suit everyone: Under the Constitution and By-Laws, we are required to have a Grievance Committee, consisting of five. Under the Constitution and By-Laws, that committee is ordinarily charged with the duty of prosecuting these complaints. Would it

not satisfy everyone and accomplish the purpose to have that regular Grievance Committee appointed by the incoming President conduct this prosecution of Mr. Austin?

BY MR. HANUN GARDNER: I will withdraw the motion that I made, and make a motion that the report of the Grievance Committee be received and filed, and that the regular Grievance Committee be ordered by the incoming President to prefer charges against H. L. Austin, and to prosecute them.

BY MR. J. A. CUNNINGHAM: I second that motion.

BY PRESIDENT BUTLER: You have heard the motion. All in favor of that motion will say AYE; those opposed NO. The AYES have it, and it is so ordered.

Inadvertently, in making up this program, Mr. Jiggitts, who is responsible for all the errors, left off the Committee of the Law Journal. I understand they are present, and we will be very glad to have them make the report at this time.

ANNUAL REPORT OF THE EDITOR OF THE MISSISSIPPI LAW JOURNAL

To the President and Members of the Mississippi State Bar Association:

I thank you very much, Mr. President, and I assure you that Mr. Wheeless and I will make our remarks as brief as possible so the Convention may proceed further with other reports.

Before going to the report of the editorial side of the Journal, may I convey to the Convention the regrets of Judge Kimbrough on not being able to attend the Convention here in Meridian. The idea and plan of a unified bar has for the last few years attracted close study and research on the part of Judge Kimbrough, and he has spent practically all his spare time, as a member and as a president of this Association, working for some means whereby the Mississippi State Bar Association could better attain the purposes and ends for which it was founded. He worked long and hard on the report of the Committee on Reorganization of the Mississippi State Bar Association which was read to us from the Pre-Convention issue of the Journal by Judge Russell, and it was his hope that he could participate in the discussions of the committee report.

It was, therefore, with great misgivings that he had to remain in Oxford, a sick man, while the plan on which he had spent so much of his valuable time was to come before this Convention for a vote of confidence. He has asked me to present his regrets to you gentlemen, and I am sure that you know, as I do, that he would have been here had not circumstances over which he had no control prevented it.

The Mississippi Law Journal in its third year was forced, by reason of the present depression, to run on a reduced budget. As a consequence, the size of the Journal in the number of pages and in the number of contributors was necessarily reduced. Volume II contained in all 492 pages while the present volume includes only 358 pages, a decrease of 134 pages. The regular issues of Volume II carried, as a rule, six leading articles each; while each issue of the present volume carried only four, and at the most, five leading articles. These facts coupled with the reduced circulation, caused by weeding out "non-paying" members of the Association, have made the cost of printing and mailing Volume III much less than that of Volume II, as the report of the Business Manager will show.

In the editorial makeup of the Journal, three changes have been made.

As you will note, on the front outside cover of the Journal, there is an index of the leading articles contained in that particular issue, giving the name of the contributor and the page on which the article may be found. It was the hope of your editor that by adding this to the front of the Journal, it might be read more by the members of the Bar. I believe it is a fact of common knowledge that lawyers, as a rule, do not open and read many of the periodicals that come into their offices. Knowing this, we felt that if, at a glance, one might see what was contained in the Journal that lay before him, he would be more likely to read it than if he had to search through its pages to find a book of contents. We hope that this addition has served its purpose.

While I was serving as business manager of Volume II, I received a letter from the president of a bank, now closed, curtly asking me to cancel his subscription, the action being predicated on the views contained in a certain article carried in the Journal. This letter was the occasion of the second addition or change in the editorial makeup of the Journal. This is contained on the page giving the staff and so forth. It is a statement that the Journal does not accept responsibility for the views expressed in any particular article and that the Journal is not sponsoring any particular and special side of a legal question. We do not seek to control or suggest what side of a legal proposition any contributor should take, but we leave this field open to him; and if some one wishes to reply to the arguments, the Journal is more than glad to publish the other side. We give our contributors freedom of expression but we do not accept the responsibilities for the expression. So, to prevent any more letters as that one of the bank president and to show the position the Journal takes, we have added the statement as it is contained on the staff page.

The last addition to Volume III in an editorial way is the Bar Association Department in the May, Pre-Convention, issue. It was thought by your editor that if the Pre-Convention issue, which appears ten days before the annual convention, could carry those committee reports that required the action of the conven-

tion, the work of the Association might be speeded up and made more efficient. We, accordingly, requested that the committee reports be sent to us in time to be included into the copy for the May issue. You see that happy result. Yesterday the report of the Committee on Reorganization was read to this assembly from the Journal. It had appeared ten days before the Convention and all of the members of the Association were prepared to discuss it and take some action concerning it. We believe that by the addition of this department, if nothing else is considered, the existence of the Journal is justified.

Coming to the contributors of the leading articles, the November issue carried "The Law of Arrests" by Judge George H. Ethridge, of Jackson; "The Court System of Mississippi" by Dr. A. B. Butts, of Mississippi A. & M. College; the "Statute of Frauds: Who is the Party to be Charged?" by Hon. Fred J. Lotterhos, of Jackson; and "Some Aspects of the Commerce Clause" by Judge R. V. Fletcher, of Chicago.

The February issue contained leading articles on the following subjects: "A New Classification in Mississippi Jurisprudence" by Hon. William H. Watkins, of Jackson; the "Tort Liability of Insurance Companies" by Hon. R. C. Stovall, of Okolona; "Guaranty of Bank Deposits in Eight States" by Dr. A. B. Butts of Mississippi A. & M. College; "The Rising Tide of Advocates" by Hon. Will Shafroth, of Chicago; "The Life of Judge J. A. P. Campbell" by Judge W. J. Pack, of Laurel; and "In Memoriam," a resume of the Memorial Exercises held in the Supreme Court in September, by Mrs. Lucy Somerville Howorth of Jackson.

The present issue, the May number, contains "The High Lights of the Great Sanhedrin" by Hon. Gabe Jacobson, of Meridian; "The Sprague Case" by Hon. H. H. Creekmore, of Jackson; "Section 147 of the Constitution of 1890" by Judge D. M. Russell, of Gulfport; and "Liabilities of Municipal Corporations in Mississippi" by Prof. K. V. Vinsel of Iowa City, Iowa. This issue also carries the Pre-Convention Committee Reports and the Table of Contents and Index for Volume III.

It seems only fair that I should announce to you the names of those members of the Law School who were on the student staff and whose efforts were responsible for the "Note and Comment," "Recent Important Decisions," and the "Book Review" Sections of the Journal.

The "Note and Comment" Section was headed by W. Calvin Wells, Jr., as editor and included L. O. Smith, Jr., Claude F. Clayton, Robertson Horton, and N. N. Engleberg.

Cary Stovall was editor of the "Recent Important Decisions" Section and had in this department with him Willis McIlwain, William Inzer, J. O. Walton, Warner Beard, Jr., David Cottrell, Jr., Carroll Kemp, J. Bennett Truly, and Buford Rowland.

It was intended at the beginning of Volume III to have the "Book Reviews" written by lawyers out in the State when it

was possible. We were fortunate in getting Hon. A. F. Gardner of Greenwood to act as a reviewer in the November issue, and Hon. Kenneth G. Price of McComb in the February issue. Thomas Ford Colbert and J. D. Vollor were the student reviewers.

This will be my last appearance before the Bar Association in connection with the Journal and I want to thank all of you for your co-operation and support. It is no easy matter to get all the copy in on time, to see that all the lithographical mistakes are corrected, to attempt to catch all misplaced commas and participles. Often just as the time approaches for the articles to come in for publication, some one who has promised to write a paper will find that he hasn't time to work it up, or that a case will require his attention until it will be too late to contribute. In such cases, we have to do the best we can.

We have felt that the Journal was going through a testing period, as it were, and we have always been desirous of making it the best possible. It was started by this body and is its official organ, but its publication was vested solely in the hands of the Law School. Being in school, we seldom have an opportunity to know whether our work is satisfactory, and, knowing that the Journal is still an infant, we often wonder what sort of impression it is making out in the State. The only reaction we can get is your reception of us at the Conventions, and we are happy that so far we have been received cordially and warmly.

May I thank you again for the ways you have assisted me as business manager and editor of the Journal and I am sure that you will continue that same fine thing with our new editor and present business manager, Mr. Leon Wheeless. I thank you.

HUGH N. CLAYTON.

(Vice-President Gardner in the Chair.)

BY MR. POWELL: I move that the Association appropriate four hundred dollars this year to the Law Journal.

BY MR. E. L. DENT: I second the motion.

BY VICE-PRESIDENT GARDNER: You have heard the motion; all in favor of that motion will let it be known by saying AYE; those opposed NO. The motion is unanimously carried.

Gentlemen, the next item on the program is an address, "The Thing Called Liberty," by Honorable Julian Alexander, of Jackson.

The Thing Called Liberty

At Yorktown the American people achieved freedom. They are still striving for Liberty. This struggle is America's greatest piece of unfinished business. When we realize that across the seas a great people are in the throes of a struggle for freedom from the slavery of too much liberty, we are apt to wonder what is this

thing that is upon the lips both of the American citizen and the bolshevik as a shibboleth.

It is well for those who form the officers and crew of the Ship of State to keep in exact adjustment its guiding compass, and from time to time to glance backwards along the wake of the ship to gauge the correctness of its course with reference to the shores from which we have embarked. We should stand at attention to rehearse the formulas of freedom.

Is Liberty a concept which is embalmed in fine phrases to delight only the ear? Is it a thing to be honored only on the Fourth of July along with other illustrious dead? The possibility that men ordinarily react unfavorably to a discussion of patriotic ideals would seem to justify such discussion by indicating the necessity therefor.

In the eleventh century William the Conquerer was the owner of all England as his private property. Public relations were unknown and unlimited private rights were recognized. All privileges and relations arising out of the use of land were held by the king to be mere appurtenances of the land, and all holders of land were subject to such conditions as the king saw fit to impose. Since it was impossible for the lands to be used profitably unless there was peace throughout his domains, peace became itself an appurtenance. Hence any branch of the implied contract to administer such lands for the king's benefit, and all injuries to persons or property were held to justify forfeiture of the lands, and constituted a breach of the king's peace. The designation of crimes in our own country as being "against the peace and dignity of the United States" had its origin in days when the peace and dignity of the Norman kings was the supreme consideration. There was not only a centralizing of power but also of national purpose.

Peace being based largely upon the maintenance of amicable relations between the king's tenants and upon just dealings between them, the matter of justice and peace also became appurtenances to the land. The justices of the peace were originally only conservators of order and peace. The use of property carried another appurtenance. This was the duty to serve the king in defense of his realm. But it was the king's liberty that was being fought for, and since the individual conceived that he had no personal interests to serve he might commute his services with pay. The extent of his military services in a cause in whose victories he would not share, could thus be fixed mathematically. Thus, in Coke on Littleton it is pointed out that it was the duty of the tenant to follow the king on foot until he had worn out a pair of shoes of the value of four pence. National service was compelled by fear of the loss of public property instead of being inspired by fear of the loss of personal liberty.

As proof of the king's absolute ownership, the king conveyed all England with its appurtenances to Pope Innocent in 1213, who re-conveyed it back to him in fee-farm subject to a rental

of one thousand marks. This rental was paid throughout the reigns of Henry III, Edward I, Edward II, and part of the reign of Edward III. It is interesting to note that Edward I, while still heir apparent, devised the kingdom to his executors, to be administered for the benefit of his heirs. A division of the land into baliwicks or counties was merely for the convenience in collecting the king's revenues. The relation between the king and his subject was in its effect that of landlord and tenant.

Even as in the days of the Caesars there was bondage because the Caesars had too much liberty, so in England it was seen that where one has absolute liberty, others can have none.

The miracle worked at Runnymede was that while the Great Charter restricted liberty, it was the liberty of the king. The people were beginning to enjoy the blessings of liberty through the magic of restraint. Under Magna Charta the king became a trustee of all lands and their "appurtenances" for the benefit of the people. But Magna Charta was not a concession by the king to freedom of action; it was rather a limitation on his authority by the people. Life still remained much like a chattel. Liberty was the ideal of a nation of serfs. The pursuit of happiness was still barred by royal barriers.

During the reign of Henry Tudor, doubtless under the influence of the English Reformation, the king assumed headship in the domain of conscience, and the cause of liberty made a distinct forward step. The king became a sort of vice-regent of the Supreme Being whose authority he in turn was compelled to acknowledge. Sovereignty became a sacred and responsible relation. The recognition of the "laws of nature and of nature's God" was not only to become compatible with constitutional law but to be accepted as its background.

To say that there is a law higher than the constitution is to suggest the idea which Jefferson had in mind in relating our rights to the "laws of nature and of nature's God." All our present restraints may in turn be related to those fundamental laws. Speech may be free but it must be clean, truthful and not profane. Property may be acquired, but not dishonestly; it may be sold, but only honestly. One may not steal the products of another's hand or mind either by taking, fraud, libel, or false witnessing. He may sell food for body or mind, but it must be respectively clean and chaste. He may not kill or injure his neighbor nor anything that is his. And so on throughout the decalog.

The modern concept of liberty, therefore, arose as a reaction against centralized human power and as an acknowledgment of divine laws and thus became a corollary of restraint.

The founders of our own republic declared not that all men are created free and equal, but only that they are created equal. Equal, not in ability or talent, but in the opportunity and rights. That they possessed certain inalienable rights as an endowment, not of royal concession, but of their Creator. That governments

were established not to procure—but to secure these rights. These rights are summarily comprehended in the right to Life—which is man's opportunity and the condition for the exercise of Liberty, which is in turn the privilege and right to engage in the Pursuit of Happiness. This, finally, is the chief end of government and of men.

It is the glory of the Declaration of Independence that it does not arrogate to itself the power to create rights and duties but merely to recognize and to declare them. Since, however, men are not in fact created equal except in rights, the weak must of necessity achieve freedom by restraining the strong. The ideal of liberty was retained in a government wherein men were restrained but with recognition of the fact that it was with the "consent of the governed."

It is the glory of the Constitution that followed that while it allows change and amendment, throughout its one hundred and forty-four years of existence, there has been no change or amendment which abridges liberty. It is the glory of our people that they have never unsheathed their swords except in freedom's cause.

It is natural that a people whose tongues had been tied, whose opinions suppressed, whose property confiscated and whose natural rights fettered, should make solemn record of such inalienable rights as freedom of conscience, of speech, of the press, of peaceable assembly and of petition. To no small extent the preservation of the thing called Liberty centers about the recogntion and unabridgement of these fundamental rights. I would have you note that all these rights involve the exercise of creative impulses—the self-expression of the ideals and desires of a free people, in thought, and in the written and spoken word. Out of the freedom of self-expression is born the state upon the civil liberties of its citizens.

Freedom of the press involves both liberties and restraints. Men are long in accepting the truth that men are not guaranteed the right to speak with freedom—an opinion that is fettered. For the press to have freedom it must itself be free. Otherwise it is much like a convict being allowed the freedom only of the jail yard. Before the Norman Conquest the bearer of false news was apt to suffer having his tongue cut out. Nearly ten centuries later, under the banner of freedom of the press, men in the theaters of public opinion are being constantly stampeded to their destruction by false cries of "fire".

Is the fact of liberty attested by the fact that in our great cities there are judges who "fear not God nor regard man," and that men are defying restraint by organized resistance to law and order? It is attested by the mob which wreaks its summary vengeance upon a cowering suspect, upon the theory that liberty means untrammeled privilege. From the standpoint of the victim there is little to convince him that the right to freedom is being demonstrated. There is a freedom that is tyrannous; so there

is a subservience that attests liberty. If this is to be a government of laws and not men, the laws might well be consulted before the wills of men are given full play. It is well for men to react to crime with horror. Before condemning the criminal or the propagandist, with sudden passion, we should at least count eight—once for each original article of our bill of rights. It is a simple truth that lynching is rather an instance of tyranny than an evidence or demonstration of freedom. Liberty is comprehended only in the law. When the law is broken, liberty escapes. There is no such thing as liberty to do wrong. Thomas Huxley said: "The only freedom I care about is the freedom to do right."

Throughout the world men are destroying each other and their own freedom in order to avoid the simple truth that liberty is a matter of give and take.* Primo Rivera in Spain, Hitler in Germany, Stalin in Russia, Horthy in Austria, Ghandi in India, and Mussolini in Italy all take different paths toward the elusive goal of civil liberty. I shall not discuss their respective merits. We may generalize as to them all with certainty, however. If they are fighting that men may achieve liberty through the restraint of law, their cause will ultimately triumph. If however, the "laws of nature and of nature's God" are being ignored or repudiated, they must fail.

The beams of the foundation of liberty may not be securely laid unless each has been so cut and mitered as to allow a fitting with the other, and a conformity as to purpose and position. The maxim "sic utere tuo, ut non alienum laedas," means also that we should not so use our liberties as to injure others. The savage in his barbarous state had no liberty because his life liberty and pursuit of happiness were at the mercy of his enemies, and protected only by might. His personal freedom being unrestrained, he was a slave to the fears and dangers of a selfish enemy who was likewise unrestrained.

Men must come to know that the bulwarks of a common defense which can insure for us peace and common welfare as against our enemies are also barriers which hedge us in. Our personal freedom is necessarily hindered by this suit of armor upon which our safety depends. Civil law, then, is the result of restraint of private rights. Liberty is the freedom to subscribe to a code of restraint.

Experience has taught men how valuable a safeguard is the writ of habeas corpus. It would be an asset to the cause of liberty if the writ of habeas corpus could be supplemented by a writ which might be called "habeas mentem"—whereby men's minds and ideas could be freed against the unlawful restraint of prejudice, ignorance, dishonesty and fear. Since our laws are the product of ideas, it is of supreme importance that our ideas be free. It is only such conduct as affects others that may be controlled or restrained.

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* Half man, half woman.

The laborer who seeks liberty by assigning to his fellow the right to dictate how and when he may work or how many brick he may lay or with whom he may work, or in what manner he may engage in the pursuit of happiness, may achieve his quest, but if so he will do more violence to our Bill of Rights than he ever did in destroying his employer's property. The politician who sells his liberty or thought for public favor is as much an enemy of the cause of civil liberty as the one whose freedom of contract is usurped by those who tell him who must print his campaign literature.

Among the interesting results of that "noble experiment" known as the Eighteenth Amendment, is the affectation of innocence with which its nullifiers charge its supporters with intolerance. They forget that, by maintaining their right to nullification, they must be held to concede in others the right to obedience. We see modern youth whose larceny of forbidden fruits has been under the compulsion of social edicts against whose tyranny he has not the moral courage to rebel—a stool pigeon of a great conspiracy in which he is an unwilling and unenthusiastic accomplice, conscripted by a despotic herd instinct to stagger in a parade of protest, and jabber of freedom with a thickened tongue. Let him beware lest his vaunted personal liberty be but the slogan of a fettered opinion. Regardless of your personal views, to which each is entitled, do not forget that neither opium nor liquor have any rights. Both are outlaws and have never been allowed at large except under bond. They have no privileges except under license, and one of the liberties of the people is the right to outlaw them, while one of the duties of the people is to obey the law while it is the law. Only citizens have rights. No man is free who indulges in what he knows to be wrong or unlawful. Liberty is comprehended only in the law; when the law is broken, liberty escapes.

If Congress, in raking the nation's back-yards, should accumulate a store of stones and empty bottles, we should at least divide our emotions between respect for the efficiency of the rake and humility for its revelations.

Laws do not fail; yet men often do. By enforcing the law do we test it; by disobeying or ignoring the law do we test and reveal ourselves. Laws may or may not be "noble experiments" to the extent that they reveal noble or ignoble character in our citizens, and their ability to rule themselves, to diagnose society's needs, to define "common welfare" and point out the path for "pursuit of happiness." We must not forget that the citizen is not guaranteed happiness but only the right to its pursuit.

The propagandist who haranges his gaping hearers in the market place, need not be viewed with alarm, so long as we are free to accept or discard his theories. Our right to reject the views of our neighbor is co-relative to his right to express them. We are apt to find that in trying to push the honest propagandist

out of our circle of civil liberty, that we have fallen outside with him.

Millions who blindly accept the truth that one can safely raise his partner's no-trump bid with a count of nine, are habitually skeptical as to the experience of mankind and the testimony of nature's God that freedom of speech and thought are the germs of liberty. It was Jefferson who said "errors of opinion may be tolerated where reason is left to combat it." And Gamaliel, speaking to the judges of the Sanhedrin, said "Refrain from these men, and let them alone; for if this counsel or this work be of men, it will come to nought, but if it be of God ye cannot overthrow it."

If those who so differ from us as to be called radicals make ugly faces at us shall we destroy them? May we not exhibit them as samples of political ugliness to the end that men might shun their counsel? It is by the extent of reaction to hostile views of liberty that we gauge our political orthodoxy. When our citizens view with complacence and tolerance the views of communism, when they cease to react in disgust to its heresies, then the time has come when we are fit for nothing else. So the existence of radicalism attests the existence also of the standard of liberty by which it is gauged. There is darkness only because there is such a thing as light. So long as our standards are not tampered with, we shall be able to measure ideas with safety.

We should not be discouraged that we may not be able to make democracy safe for the world in our generation. We can at least educate the minds of our citizens to know what they want and endeavor to inspire their hearts to attempt to achieve it. Men thus equipped may safely be left to work out their own political salvation in fear and trembling—a fear of the bondage of ignorance, prejudice, intolerance in places both high and low—both of which reactions have the merit of humility and anxiety. These are wholesome states of mind.

Men can not consent to be governed unless they are free and courageous enough to express themselves. The position of a representative with his ear to the ground is not an undignified one, so long as his heart is thus kept closer to the people. He is a representative, not a delegate. But the slogan "let the people rule" has less a true ring than "Make the people rule." A government is not of the people and for the people unless it is by the people. Such government comes not with fasting and prayer but with faith, knowledge and works.

Man, hampered by human frailties, still imagines that liberty can be finally bought with blood. The delusion still persists that under the banner of war we can somehow gain our liberties by losing them. War, which is a reversion to barbarism, has ever been the greatest set-back to the cause of civil liberty. War never gave any victory except the freedom to achieve liberty during the period of peace that follows. Yet the repressions that survive treaties and armistices leave serious periods of reconstruction, during which the liberties that have been surrendered or lost are

being re-possessed. Blood may be the first cost of liberty, but the price of its maintenance is still eternal vigilance. Even today, the spirit and influence of our war restrictions is still perpetuated in our laws. The civil liberties of the Tories were disregarded during the Revolution, as were the rights of secessionists in the Civil War and of "Reds" in the World War. If, in 1861, Lincoln was fighting to make men free, Jefferson Davis was fighting to keep them so.

How cruel is war; life, liberty and the pursuit of happiness are among its victims. Property is no longer sacred. One's thoughts, words and acts are no longer his own. There is hardly any phase of civil liberty that is not destroyed or suspended by war.

I hate war; yet I envy war. I envy its ability to enlist all men's powers and resources of mind and heart; its great force in creating upheavals, in changing the complexion of things. I envy its ability to draw great crowds in endless file, to make men see in a nation's flag beauties and meanings hitherto unvisioned, to make men proud to display their colors and to fight for them. I envy its hold upon the hearts of men and their hopes, the trust and dependence it inspires in them for the achievement of these hopes and the vindication of their rights. I envy, for the cause of peace, war's tendency to elevate men to high estate for the mere performance of plain duty—the honoring and rewarding of men who have done their jobs well or reasonably well. Would that the causes of peace could inspire similar sacrifices, could make glorious its battles, noble its services, and honored its martyrs.

In that day, men shall be first in the hearts of their countrymen, not because they have been first in war, but because they have been first in peace.

Patriotism is not blind allegiance. It is a conscious and sympathetic understanding as to where we came from and where we are going to. In a government based upon the consent of the governed we need fear nothing so long as we protect our freedom to give or to withhold our consent.

If ours is to be a "Sweet Land of Liberty" we must sing its hymn of allegiance to the "Author of Liberty"—"our fathers" God. Such allegiance sees in every worthy law the germ of divine sanction.

Finally, let us mistrust those who justify their ideas as being the "last word" in Liberty. Nothing new and true has been said about liberty for at least the past 150 years. Would you look upon a picture of liberty in the modern manner? It is the conception of one who in the place of our Statue of Liberty would erect a stolid Sicilian figure in a black shirt, holding aloft a bottle of castor oil,—if not to enlighten the word, at least to terrify it. Let me quote:

"Liberty is no longer a chaste severe maiden for whom generations in the first half of the last century fought and died.

Fascism is not afraid to declare itself liberal or anti-liberal. It has already passed, and if necessary, will again pass without the slightest hesitation, over the body more or less decomposed, of the Goddess of Liberty.''

Such are the views of the latest of the Caesars, Benito Mussolini. Can we hear these heresies with complacency? I trust that even if the echoes of this blast of arrogance should cross the Rubicon, that the frowning Alpine Heights will deflect them from those that rest in Flanders' Field.

There are no styles in Liberty because truth and honesty and justice are not creatures of statutes and constitutions, or the mode of the moment, and happiness is not successfully pursued in other paths. We do not need new ideas; we only need a new emphasis upon the old ones.

Not until men's consciences are outraged will they weave the strands of loyalty, devotion and courage and common honesty into a scourge to drive from the holy temple of our liberties those who traffic in inalienable rights. I have sometimes thought that the chaste Goddess of Liberty in holding aloft her torch for the enlightenment of the world has somehow neglected those fair shores, toward which her back is turned. Perhaps it would not be asking too much if she would anon turn her face and her torch toward our own people, familiar only with her form. Unless we pursue happiness and peace with our faces toward her light, we shall stumble in darkness of our own shadows. Those who covet liberty and seek it with devotion, shall know this truth, for this truth shall make them free.

BY VICE-PRESIDENT GARDNER: Mr. Alexander, you have made a masterly address, and it proves beyond doubt the statement made by Judge Truly that oratory is not a lost art. In the name of the Bar Association, I thank you for this able address. Those who did not have the pleasure of hearing it will have the pleasure of reading it in the printed Journal.

Mr. Butler, is there anything else on the program this morning?

(President Butler in the Chair.)

BY PRESIDENT BUTLER: The next thing on the program is the report of the regular standing committees. I believe we have one other special committee that has not reported yet. We will have the report of the special committee to draft laws to carry into effect the recommendations of the committee in regard to rule making power.

BY JUDGE V. A. GRIFFITH: Mr. President, and Gentlemen of the Association, in making this special report, we do not make a full report; we rather make an excuse for a report.

[Editor's Note: See this report in Mississippi Law Journal, May 1931 issue, page 331.]

BY JUDGE V. A. GRIFFITH: I move the adoption of this partial report.

BY MR. R. M. KELLY: I move that we adopt the report and continue the committee.

BY MR. BANKS: I second the motion.

BY PRESIDENT BUTLER: You have heard the report, the motion to adopt the report and the amendment to the motion to adopt, that is, that Judge Griffith's motion to adopt the report be amended so as to adopt the report and continue the committee. All in favor of the motion as amended will say AYE; those opposed NO. The motion is carried, and the committee will be continued.

The next committee is that on Jurisprudence and Law Reform. Mr. T. Brady, Jr., of Brookhaven, is the Chairman of that committee; Mr. Sillers, Mr. Currie and Mr. Magruder are members of the committee. I see no member of that committee present, and I will ask Mr. Jiggitts to kindly read that report.

[Editor's Note: See this report in Mississippi Law Journal, May 1931 issue, page 329.]

Upon motion, duly seconded and carried, the report was adopted.

BY PRESIDENT BUTLER: The next is the report of the Committee on Judicial Administration and Remedial Procedure. Will some member of the committee present that report, or shall we have the Secretary read it?

BY MR. GILBERT: Mr. President, the report of that committee is very short, and I will ask the Secretary to read it.

[Editor's Note: See this report in Mississippi Law Journal, May 1931 issue, page 330.]

Upon motion, duly seconded and carried, the report of the committee was adopted.

BY PRESIDENT BUTLER: The next is the regular Committee on Legal Education and Admission to the Bar. Judge Stone Deavours is Chairman of that committee. There are none of the members of the committee present.

Upon motion, duly seconded and carried the report of the Committee on Legal Education and Admission to the Bar was dispensed with.

BY PRESIDENT BUTLER: The next is the Committee on Obituaries and Memorials. Mr. Heidelberg, that is your committee.

BY MR. HEIDELBERG: Mr. President, we have overlooked making any written report. I want to say, however,

before the Supreme Court, memorials were read and adopted by the Supreme Court.

BY MR. LOUIS JIGGITTS: They appeared in the Law Journal.

BY MR. HEIDELBERG: I will ask that the Secretary read the report.

BY PRESIDENT BUTLER: May I suggest, would it serve the purpose if the verbal report of the Chairman of the Committee be incorporated in these proceedings without the necessity of reproducing as a part of the present record, or the report of this committee, the proceedings before the Supreme Court under the directions of this committee, which have already been published in our official Journal.

BY MR. SHOTTS: Mr. President, I make that motion.

BY JUDGE W. H. POWELL: I second the motion.

BY PRESIDENT BUTLER: You have heard the motion; all in favor will let it be known by saying AYE; those opposed NO. The motion is carried.

BY MR. JULIAN ALEXANDER: Mr. President, I want to suggest the propriety of reading those names.

BY PRESIDENT BUTLER: I agree with you on that, and we will have Mr. Jiggitts to read the names of those referred to in these resolutions; because sometimes we do not all go up to the Supreme Court, and we really forget that some of our co-laborers have passed on.

BY MR. JIGGITTS: I will read the name and the date on which each member died.

Robert Sitman Stewart, died March 24, 1930.
Leroy Percy, died December, 1929.
Albert Tatum Dent, died December, 1929.
Major Pat Henry, died May 18, 1930.
J. W. Cassedy, died September, 1929.
Samuel Hardy Terral, died September 5, 1930.
James A. Teat, died March 25, 1930.
Moses D. Landau, died in 1930.
Ellis W. Patrick, died October 27, 1929.

BY PRESIDENT BUTLER: The next is the report of the Committee on Professional Ethics. Mr. Jacobson is the Chairman of that Committee.

BY MR. JACOBSON: Mr. President, and Gentlemen of Bar Association: I desire to make a verbal report for that committee. I think the committee was ready to function, but there were no matters that came before it during the year, and there was no necessity for making any formal report.

BY PRESIDENT BUTLER: You have heard the report of the committee—

BY MR. TRAVIS: I move the verbal report be received.

The motion was duly seconded, and carried.

BY PRESIDENT BUTLER: The next Committee is the Legislative Committee, of which Mr. Leon Hendrick, of Jackson, is the Chairman. He is not here. Mr. Will McLain, Mr. J. L. Bryd and Mr. James McClure, of Sardis, are members of that committee. I will ask the Secretary to read that report in the absence of any member of that committee.

[Editor's Note: See this report in Mississippi Law Journal, May 1931 issue, page 330.]

On motion, duly seconded and carried, the report was received.

BY THE PRESIDENT: The next is the report of the Executive Committee.

To the Mississippi State Bar Association:

Your Executive Committee reports that during the year it has held four meetings. It has acted jointly with the Special Grievance Committee in certain of the disbarment proceedings, as contemplated by the resolution, adopted at the twenty-fifth annual meeting, a report of which we understand will be submitted by the Special Grievance Committee to the Association.

We have checked the accounts of the Secretary and Treasurer, and believe them to be correct and have otherwise attempted to discharge the duties imposed upon us by the By-laws. We express our appreciation for the co-operation and help received from the various members of the bar.

THE EXECUTIVE COMMITTEE,
Geo. Butler,
R. M. Kelley,
Hanun Gardner.

On motion, duly seconded and carried, the report of the Executive Committee was received.

BY PRESIDENT BUTLER: We will have the names of the persons applying for membership in the Association. The applications for new membership require the vote of the Association.

BY SECRETARY JIGGITTS: I will read the names of those applying for membership:

E. R. HOLMES, JR.
JOHN L. BUCKLEY
J. O. SAMS
A. H. BELL
A. M. BYRD
J. E. SHIRLEY
W. F. LATHAM
B. C. ADAMS
EDWIN WHITE
C. P. SMYTHE

WALKER BROACH, JR.
J. G. SMYTHE
J. K. TRAVIS
J. R. LaBRANO.

BY MR. E. L. DENT: I move that they be accepted into the Association.

BY MR. TRAVIS: I second the motion.

BY PRESIDENT BUTLER: You have heard this list of applicants read out. Not hearing any objection from the Executive Committee, I am assuming that they have all been approved by the Executive Committee. It now requires the formal action of the Association. The motion has been made that they be received into full membership. All in favor of that motion let it be known by saying AYE; those opposed NO. The motion is carried.

Under a resolution which has been passed all those who have simply paid their dues, and who have been admitted at a former date, are re-instated, and we have called out only the names of those where the application for membership has been presented for the first time.

We will now have your report, General Flowers, on this Re-organization.

To the Mississippi State Bar Association:

Your committee was appointed late in the afternoon of the 29th day of April, 1931, to draft a bill to be submitted to the Association at the session today, April 30, 1931, embodying a plan for the organization of a State Bar in accordance with the report of the Committee on Reorganization of the Bar Associaion.

Your committee finds that in the short time allowed, it is not practicable to draft an act that the committee is willing to recommend. Your committee finds that there are several questions that need to be investigated in order to prepare a bill that would not be inconsistent with the Constitution of the State of Mississippi.

Your committee respectfully recommends and requests that the committee be given additional time within which to prepare a bill, as directed by the Association, which your committee will be authorized to have published in the next issue of the Mississippi Law Journal for the information of the members of the Association and the Bar at large.

Your committee further recommends that members of the Association and of the State Bar, after examining the proposed draft prepared by your committee as published in the Law Journal, communicate their suggestions and criticisms to the chairman of this committee, J. N. Flowers of Jackson, Mississippi, within thirty (30) days of the publication of such proposed bill. Thereupon, the chairman of the committee will call the committee together and review and consider the criticisms and suggestions and prepare a final draft of the measure to be submitted first to the Executive Committee of the Bar Association for its approval and when so approved, to be presented to the Legislature by such legislative steering committee as this Association may, at this session, designate.

Respectfully submitted,
J. N. FLOWERS, Chairman,
R. E. WILBOURNE,
W. W. VENABLE,
A. T. STOVALL,
W. H. WATKINS.

BY MR. TUBB: I move the recommendations of the committee be adopted.

BY MR. TRAVIS: I second the motion.

BY GENERAL FLOWERS: Among the questions we have to investigate, it is not clear to us just what form such an organization should take and how it should be accomplished.

We have before us various suggestions and objections made in an informal discussion of it the other night, not the committee, but every lawyer in the hotel who got here night before last; we discussed a good many phases of it. One of the principal objections to some of those acts we are following is that in other states this organization has taken over the admission to the Bar; that was objected to, and it is our understanding that will not be embraced in the bill that we are to prepare; that is, the matter of admission to the Bar will remain as it now is. Another was that in the consideration of cases against attorneys, if any such should arise, the Board of Commissioners, or whatever the governing board may be called, would have authority to act finally. That was objected to and passed upon by those lawyers who assembled here the other night, and it was understood that no provision as that would be embraced—the point raised by Mr. Reily yesterday afternoon—this board or commission would have no final authority to suspend or disbar anybody. If it was done at all it would have to be done on this record that the board or commission would make up, and certify to the Supreme Court of the State. Those are the principal objections that were discussed and seriously urged; and we understand that this measure is to be so prepared as to eliminate and not to contain those objectionable features. And under this plan it is our idea that every member of the Bar—no man is acting for himself alone, but we are each acting for all, as we understand, and if this measure that we may get together on is published in the Law Journal it is expected that every member of the Bar in the State will read that—get a copy of it and read it, and urge whatever objections or criticisms occur to him, and under this plan this committee would consider all of those objections and try to meet them; and then if we get the measure that this committee would approve, then the Executive Committee that you will elect passes on it, then if they all get together on it, let the Association be committed to that bill that all these men approve; and then if you have a committee to take that measure as thus finally approved and submit it to the Legislature at the approach-

ing session, we think that gives some definiteness to the plan, and that it ought to work.

BY MR. HERBERT HOLMES: I move to amend the motion just made by continuing this committee.

BY MR. GARDNER: Is there any further discussion of the motion as made?

BY MR. TUBB: That is provided in the report.

BY MR. GARDNER: Automatically that carries the point. All in favor of the motion as made to adopt the report, which will be printed in the Law Journal, let your sentiments be known by saying AYE; those opposed NO. The motion is unanimously carried.

BY MR. R. E. WILBOURNE: I move that the incoming President of the Association appoint a Steering Committee of five to have charge of the matters presented in this measure to the next, 1932, session of the Legislature.

BY MR. SHOTTS: I second the motion.

BY MR. W. A. ELLIS: I want to say, let this present committee do the steering; they have charge of it. I move to amend the motion by letting the present committee be the Steering Committee.

BY MR. TRAVIS: I would like to make a motion in connection with that action. I feel like we should get back of it, every one of us. I move you that it be the sense of this meeting that each and every lawyer attending this meeting get back of that and see his representative in the Legislature and in the Senate, and see if we cannot work this through. I make a motion to that effect, that we go on record, and see if we are solid on that.

BY MR. GARDNER: I think we have too many motions.

BY MR. W. A. ELLIS: I moved to amend that motion, and instead of having that new committee, let the committee having the bill in charge steer it.

BY GENERAL FLOWERS: I would like to say, I do not think this committee is the right committee to do that. If I wanted to get anything before the Legislature, I would not select anybody on this committee. You can get a committee which would do that much more effectively than this committee.

BY MR. GARDNER: Mr. Ellis, do you insist on your motion?

BY MR. W. A. ELLIS: I don't see any use of withdrawing it.

BY MR. J. T. BROWN: I move to table the amendment.

BY MR. SHOTTS: I second the motion.

BY MR. GARDNER: All in favor of the motion to table the amendment by Mr. Ellis will let it be known by saying AYE; those opposed NO. The motion to table the amendment is carried.

The question now comes up on the motion to appoint a Steering Committee of five—that the incoming President appoint a Steering Committee of five to go and urge the passage of this Re-organization Plan before the next session of the Legislature. All in favor of that motion will let it be known by saying AYE; those opposed NO. The motion is unanimously carried.

On motion, duly seconded and carried, the Association adjourned to meet again at 2:00 o'clock p. m. on April 30, 1931.

SECOND DAY

(Afternoon Session.)

BY PRESIDENT BUTLER: The Association will come to order. The first thing on the program for the afternoon is the election of officers. We are to elect a President, and I am open for nominations for the office of President.

BY MR. R. L. DENT: Mr. President, this Association has taken a very important step and, in my judgment, the election of the officers and the Executive Committee in a very large measure will determine the success or failure of this Association. It is my distinguished pleasure to suggest the name of a gentleman who is a real lawyer, a Mississippian, born in Meridian and now lives in Clarksdale, and who has qualified in every measure in every position of trust that has been confided to him; I, therefore, place in nomination the Honorable W. W. Venable, of Clarksdale, Mississippi, as the next President of the Bar Association.

BY MR. HANUN GARDNER: I don't know of any finer man or abler lawyer than Webb Venable; and I second the nomination.

BY MR. R. H. POWELL: I move the nominations be closed, and the Secretary cast one ballot for all for W. W. Venable for President.

BY PRESIDENT BUTLER: You have heard the motion, that the nominations be closed and that the Secretary be instructed to cast one ballot of the Association for Honorable Webb Venable as President. Are you ready for the question? All in favor of that motion will say AYE;

those opposed NO. The motion is carried; and Mr. Secretary you will cast the ballot.

BY SECRETARY JIGGITTS: I take pleasure in casting one ballot for all for Honorable W. W. Venable for President of the Association for the ensuing year.

BY PRESIDENT BUTLER: I will appoint Mr. Dent, Mr. Gardner and Mr. Leftwich as a Committee of Three to notify Mr. Venable of his election.

BY MR. W. W. VENABLE: Mr. President, and Gentlemen of the Bar Association: The only way that I can express adequately my appreciation of the honor which you have conferred upon me is by giving to you and to the interests which you represent, and about which you are so much concerned, the very best labor of which I am capable. I have to say that it will be my effort to do that, and to do everything in my power within the next year to forward the interests of this Association in the promotion of those movements for which you stand. I thank you.

BY PRESIDENT BUTLER: Mr. Venable, I want to present to you, sir, the gavel of the Mississippi State Bar Association, and will ask you to come around and take charge of the meeting.

BY PRESIDENT W. W. VENABLE: Gentlemen, the next order of business is the election of a Vice-President.

BY JUDGE CARR: In view of the fact that we have just elected one good man, I want to nominate another one. I nominate Bob Dent from Vicksburg.

BY MR. SHOTTS: I second the nomination.

BY MR. R. M. KELLY: I move the nominations be closed and that the Secretary cast one ballot for all for Mr. Dent for Vice-President of the Association.

BY MR. ELLIS: I second the motion.

BY PRESIDENT VENABLE: You have heard the motion. All in favor of that motion will say AYE; those opposed NO. The motion is carried, and the Secretary will cast the ballot.

BY SECRETARY JIGGITTS: I take pleasure in casting one ballot of the Association for Mr. R. L. Dent for Vice-President of the Association for the ensuing year.

BY PRESIDENT VENABLE: Gentlemen, the next order of business is the selection of the members of the Executive Committee for the coming year. If there is no objection, by unanimous consent, I will ask the lawyers from the several districts to meet and make your nominations.

The following named gentlemen have been nominated: From the Central District, Mr. J. T. Brown; from the

Northern District, Mr. J. J. Breland; from the Southern District, Judge R. W. Heidelberg.

Upon motion, duly seconded and carried, the Secretary was instructed to cast, and did cast, one ballot of the Association for the three persons named for members of the Executive Committee.

BY PRESIDENT VENABLE: The next order of business will be the selection of three delegates to the American Bar Association.

BY MR. McINTOSH: I desire to nominate Mr. W. S. Welsh, of Laurel.

BY MR. BOZEMAN: I desire to nominate Mr. Gabe Jacobson, of Meridian.

BY MR. DENT: I desire to nominate Mr. A. S. Bozeman, of Meridian.

On motion, duly seconded and carried, the nominations were closed, and the three persons above named were elected by acclamation.

BY PRESIDENT VENABLE: I will now receive nominations for Alternates. We are to elect three alternates.

BY MR. GEORGE LEFTWICH: I nominate Mr. Herbert Holmes.

BY MR. BROWN: I nominate Mr. R. H. Powell, of Canton.

BY MR. CAMERON: I nominate Mr. A. T. Stovall, Sr.

On motion, duly seconded and carried, the nominations for alternates were closed, and the three above named persons were elected by acclamation.

BY PRESIDENT VENABLE: The next order is the selection of our next place of meeting.

Vicksburg, Gulfport, Jackson and Natchez were placed in nomination.

After dropping the two lowest, the final ballot resulted in a vote of 50 for Vicksburg and 40 for Gulfport.

BY MR. GARDNER: Mr. President, I want to make this motion: It has been the universal impression of everyone I have heard that this has been one of the most delightful and profitable meetings the Association has ever had, and that is due to the magnificent treatment received from the local Bar Association. I make the motion that we extend a vote of appreciation to the Meridian Bar for this delightful gathering.

The motion was duly seconded, and carried unanimously.

Thereupon, on motion, duly seconded and carried, the Association adjourned sine die.

ROLL OF MEMBERS

HONORARY

R. E. L. SANER, Dallas, Texas
C. B. AMES

SUPREME COURT

Division A

SYDNEY SMITH, Chief Justice W. H. COOK, Associate Justice
J. G. McGOWAN, Associate Justice

Division B

GEO. H. ETHRIDGE, Presiding Justice; V. A. GRIFFITH, Associate Justice
W. D. ANDERSON, Associate Justice

FEDERAL JUDGES

E. R. HOLMES ..... Yazoo City, Miss.
ALLEN COX ..... Baldwyn

CIRCUIT JUDGES

W. A. Alcorn, Jr. ..... Clarksdale
J. F. Allen ..... Kosciusko
E. L. Brian ..... Vicksburg
R. L. Corban ..... Fayette
W. L. Cranford ..... Seminary
S. F. Davis ..... Indianola
J. D. Fatheree ..... Quitman
R. S. Hall ..... Hattiesburg
J. Q. Langston ..... Columbia
C. P. Long ..... Tupelo
Thos. E. Pegram ..... Ripley
W. H. Potter ..... Jackson
Greek L. Rice ..... Charleston
E. J. Simmons ..... Magnolia
J. I. Sturdivant ..... Columbus
W. A. White ..... Gulfport
D. M. Anderson ..... Newton

CHANCELLORS

R. W. Cutrer ..... Magnolia
T. P. Dale ..... Hattiesburg
D. M. Russell ..... Gulfport
T. P. Guyton ..... Kosciusko
N. R. Sledge ..... Senatobia
V. J. Stricker ..... Jackson
G. C. Tann ..... Decatur
J. L. Williams ..... Indianola
R. E. Jackson ..... Cleveland

LIFE MEMBERS

E. J. Bowers ..... Gulfport
W. S. Chapman ..... Indianola
E. A. White ..... Laurel
John Sharp Williams ..... Yazoo City

ACTIVE MEMBERS

Adams, B. C., Quitman
Amis, A. B., Meridian
Anderson, D. M., Newton
Anderson, S. V., Newton
Armistead, A. A., Vicksburg

Backstrom, Oscar, Gulfport
Barbour, J. F., Yazoo City
Barnett, D. R., Yazoo City
Barnett, T. J., Carthage
Bloomfield, Horace, Pascagoula
Boggan, J. W. P., Tupelo
Bozeman, A. S., Meridian
Brady, T., Brookhaven
Bramlett, Jr., D. C., Woodville
Breland, J. J., Sumner
Bridgforth, Allen, Yazoo City
Brown, C. S., Gulfport
Brown, J. T., Jackson
Brown, J. T., Jackson
Brunini, Jno., Vicksburg
Butler, George, Jackson
Butts, A. B., Starkville

Cameron, Chas. B., Meridian
Cameron, Ben F., Meridian
Campbell, C. S., Jackson
Caradine, J. E., West Point
Case, H. F., Quitman
Collins, Robt. W., Jackson
Conn, W. D., Corinth
Conner, Sennett, Seminary
Cox, W. H., Jackson
Crawley, Jas. T., Kosciusko
Cunningham, Jas. A., Booneville
Currie, Jr., E. J., Hattiesburg
Currie, J. H., Meridian
Currie, N. T., Hattiesburg
Cutrer, J. W., Clarksdale

Davis, T. W., Purvis
Deavours, Stone, Laurel
Denman, Richard, Charleston
Dent, E. L., Collins
Dent, R. L., Vicksburg
Drake, J. T., Port Gibson
Dulaney, Jr., J. W., Tunica

East, J. R., Brandon
Ellis, W. A., Carthage
Ethridge, Eugene B., Jackson

Fant, Lester G., Holly Springs
Featherstone, D. M., Holly Springs
Fitzgerald, Gerald, Clarksdale
Flowers, J. N., Jackson
Franklin, J. B., Jackson
Frierson, J. F., Columbus

Gardner Hanun, Gulfport
Garnett, Chas. L., Columbus
Genin, R. L., Bay St. Louis
Gilbert, V. W., Meridian
Gore, W. E., Marks
Gore, T. N., Marks
Greaves, H. B., Canton
Green, J. W., Jackson
Green, Marcellus, Jackson

Hafter, J. S., Greenville
Hall, Wm. M., Memphis, Tenn.
Hallam, Louis C., Jackson
Haman, Jr., Thos. L., Houston
Harper, A. Y., Jackson
Heidelburg, D. W., Shubuta
Heidelburg, R. W., Hattiesburg
Hewitt, F. D., McComb
Hirsch, J. K., Vicksburg
Holmes, Herbert, Senatobia
Holmes, G. M., Aberdeen
Holmes, J. G., Yazoo City
Houston, D. W., Aberdeen
Houston, D. W., Jr., Aberdeen
Howie, J. H., Jackson

Jacobson, Gabe, Meridian
Jiggitts, Louis M., Jackson
Johnson, Elbert, Indianola
Johnson, Paul B., Hattiesburg
Johnson, C. E., Union
Johnson, C. A., Newton
Jones, Barrett, Jackson

Keaton, Grayson B., Picayune
Kimbrough, T. C., University
Kuykendall, John M., Charleston

Lake, Jr., J. A., Greenville
Latham, W. F., Quitman
Leftwich, George J., Aberdeen
Leonard, H. T., Kosciusko
Lindholm, P. P., Lexington

Livingston, E. M., Louisville
Lotterhos, F. J., Jackson
Lyell, G. G., Jackson

Magruder, W. W., Starkville
Majure, R. S., Newton
Miller, C. C., Meridian
Mitchell, Geo. T., Jackson
Mitchell, Guy, Tupelo
Mize, S. C., Gulfport
Moody, C. C., Indianola
Moss, O. F., Lucedale
Mounger, Henry, Columbus
McLain, W. G., McComb
McClelland, Thompson, West Point
McFarland, B. H., Aberdeen
McIntosh, H. M., Collins

Neill, S. D., Indianola
Noble, Roy P., Laurel

Odom, H. Talbot, Greenwood
Owen, Frank C., Columbus

Pack, W. J., Laurel
Pack, W. L., Jr., Laurel
Percy, W. A., Greenville
Powell, W. H., Canton
Powell, R. H., Canton
Power, Geo. B., Jackson
Price, J. H., Indianola

Rankin, J. E., Tupelo
Reiley, M. W., Meridian
Roberts, W. C., Rosedale
Roberts, M. M., Hattiesburg
Robertson, S. V., Jackson
Rowe, V. D., Winona
Russell, A. Bryan, Bay St. Louis

Sams, J. O., Meridian
Sams, W. C., Meridian
Saxon, J. B., Waynesboro
Schauber, A. B., Laurel
Shands, A. W., Cleveland
Shands, Dugas, Cleveland
Shannon, C. R., Laurel
Shirley, J. E., Quitman
Shotts, H. A., Meridian
Sillers, Walter, Rosedale
Simrall, Jr., James, Hattiesburg
Smith, Ed W., Clarksdale
Smith, O. R., Corinth
Smythe, J. C., Kosciusko
Spinks, C. P., DeKalb
Steven, H. S., Hattiesburg
Steven, J. M., Jackson
Stirling, J. B., Jackson
Stockett, Peter M., Woodville
Stockstill, J. E., Picayune
Strauss, D. S., Greenville
Street, C. S., Laurel
Streit, R. S., Jackson
Sweat, W. C., Corinth

Talbot, J. M., Clarksdale
Taylor, D. M., Waynesboro
Taylor, J. L., Gulfport
Thomas, Frank G., Tupelo
Thomas, J. M., Tupelo
Thompson, J. H., Jackson
Thompson, R. H., Jackson
Travis, J. K., Hattiesburg
Trenholm, E. L., Jackson
Truly, Jeff, Fayette
Tubb, C. L., Aberdeen
Tubb, Talmadge B., Amory
Tubb, Thomas J., West Point
Tucker, Clay B., Woodville
Tucker, W. F., Woodville
Turner, W. I., Newton
Tyler, Luther L., Picayune

Venable, W. W., Clarksdale

Ward, Will E., Starkville
Watkins, W. H., Jackson
Wells, W. Calvin, Jackson
Welsh, W. S., Laurel
White, W. A., Gulfport
White, Edwin, Lexington
Whittington, E. F., Clarksdale
Wilbourn, R. E., Meridian
Williams, E. G., McComb
Williams, R. X., Oxford
Wiley, O. E., Ruleville
Wilson, H. J., Hazlehurst
Wilroy, N. E., Hernando
Wise, Louis, Yazoo City
Worsham, B. F., Corinth
Wynn, W. T., Greenville

CONSTITUTION

Name

Article I. The name of this Association shall be the Mississippi State Bar Association.

Objects

Art. II. The objects of the Association are to foster legal science, maintain the honor and dignity of the profession of law, to cultivate professional ethics and social intercourse among its members, and to promote improvements in the law and the modes of its administration.

Election of Members

Art. III. Petitions for membership in this Association shall be endorsed by two members thereof, and shall first be considered by the Executive Committee, which committee shall report its recommendation thereon to the Association at its annual meeting, to be held next thereafter. A favorable report by this committee shall entitle a person to membership without ballot, unless a ballot on such report is demanded by some member of the Association, and, upon such ballot, five negative votes shall be sufficient to defeat any election for membership.

Membership

Art. IV. Any person shall be eligible to membership in this Association who shall be a member of the Bar of this State, in good standing, and who shall also be nominated as herein provided.

Officers

Art. V. The officers of this Association shall consist of one President, one Vice-President, a Secretary and Treasurer, and an Executive Committee, which Executive Committee shall be constituted as hereinafter provided. Each of these officers shall be elected at each annual meeting for the next ensuing year, but the same person shall not be elected for President for two years in succession. All such elections shall be held by ballot. The Secretary and Treasurer shall be elected by the Executive Committee. The officers elected shall hold office until their successors are elected and qualified according to the Constitution and By-Laws.

Executive Committee

Art. VI. The Executive Committee shall consist of five members, consisting of the President, who shall be ex-officio chairman thereof, the Vice-President, and one member to be elected at large from each Supreme Court District as now constituted, and shall discharge such duties as shall be imposed upon it by the By-Laws. It may be called together by the President or by any three members thereof.

Election of Members

Art. VII. All members of this Convention enrolling themselves and all others who have requested their enrollment, and all persons elected as herein provided, shall become members of the Association upon the payment of the admission fee as herein provided for. But after the adjournment of this Convention all nominations for membership shall be made as herein provided.

Annual Dues

Art. VIII. Each member shall pay to the Treasurer as annual dues, such sum as may be prescribed by the By-Laws, and no person shall be qualified to exercise any privileges of membership who is in default. Such dues shall

be payable, and the payment thereof enforced, as may be provided by the By-Laws. Members shall be entitled to receive all publications of the Association free of charge. The admission fee shall be such sum as may be prescribed by the By-Laws, to be paid as the member is elected. The admission fee shall be in lieu of all dues for the first year.

Adoption and Amendment of By-Laws

Art. IX. By-Laws may be adopted or amended at any annual meeting of the Association by a majority of the members present.

Committees

Art. X. The following committees shall be annually appointed by the President for the year ensuing and shall consist of five members each:

1. On Jurisprudence and Law Reform.
2. On Judicial Administration and Remedial Procedure.
3. On Legal Education and Admission to the Bar.
4. On Obituaries and Memorials.
5. On Grievances.
6. On Professional Ethics.
7. Legislative Committee.

And such other committees as may be determined at any meeting.

A majority of those members of any committee who may be present at any meeting of such committee, shall constitute a quorum for the purpose of such meeting. Vacancies in any office provided for by the Constitution shall be filled by the President, and the appointee shall hold office until the next meeting of the Association.

Meeting of the Association

Art. XI. The Association shall meet annually at such time and place as it may select, and fifty members present at such meeting shall constitute a quorum. The Secretary shall give sixty days' notice of time and place of such meeting, either by publication in a public newspaper or by personal communication.

Duties of the President

Art. XII. The President shall preside at all meetings of the Association, and shall open each annual meeting with an address, in which he shall communicate the most noteworthy changes in the statute law, on points of general interest, made in the State and by Congress during the preceding year, or he may speak upon such matters of current interest as he may deem of value to the Association. Should the office of President become vacant by death, resignation or otherwise, the Vice-President shall possess the powers and discharge the duties of such office.

Alterations or Amendments of the Constitution

Art. XIII. This Constitution may be altered or amended by vote of three-fourths of the members present at any annual meeting, but no such change shall be made at any meeting at which less than fifty members are present.

Suspension of Members

Art. XIV. Any member of the Association may be suspended or expelled for misconduct in his relations to his Association or in his profession, on conviction thereof, in such manner as may be prescribed by the By-Laws.

Affiliation Plan

Art. XV. A Local or County Bar Association in Mississippi may become affiliated with the Association on certification to the Secretary of this Association by its officers that such Local or County Association has voted to affiliate itself with this Association pursuant to the Constitution of this Association, and acceptance of such Association by vote of the Executive Committee of this Association; and such affiliation shall continue until terminated either by vote of the Local or County Association or by vote of the Executive

Committee of this Association. Each such affiliated Local or County Association shall certify annually to the Secretary of this Association any change in its membership, and pay to this Association an annual fee for each member of said Local or County Association at the rate from time to time provided by or pursuant to the terms of the Constitution or By-Laws of this Association; and all such affiliated associations shall co-operate with each other and with this Association and their and its respective committees in carrying out the objects of this Association.

No member of the bar of any city, town or village, or county, in which there shall be at the time such an affiliated association, shall hereafter be eligible to membership in this Association except as a member of such Local or County Association; and the termination of the membership of any member in any such affiliated association shall ipso facto terminate his membership in this Association. In case of the termination of affiliation of any such Local or County Association with this Association, all members of the affiliated association so desiring may remain members of this Association by paying the regular dues at the rate from time to time provided by the Constitution or By-Laws of this State Association.

BY-LAWS

I. President

The President shall preside at all meetings of the Association, and in case of absence, the Vice-President shall preside.

II. Secretary and Treasurer

The Secretary and Treasurer shall keep a record of all meetings of the Association, and of all other matters of which record shall be deemed advisable by the Association and shall conduct the correspondence of the Association, with the concurrence of the President. He shall notify the officers and members of their election, and shall keep a roll of the members and shall issue notices of all meetings; and shall collect, and, under the direction of the Executive Committee, disburse all funds of the Association. He shall report annually, and oftener if required; he shall keep regular accounts, which shall be at all times open to the inspection of the members of the Association. His accounts shall be audited by the Executive Committee. Before discharging any of the duties of this office, the incumbent shall execute a bond with good and sufficient surety, to be approved by the President, payable to the President and his successors in office in the sum of two thousand ($2,000.00) dollars, for the use of the Association and conditioned that he will well and faithfully perform the duties of his office so long as he discharges any of the duties thereof.

III. Executive Committee

The Executive Committee shall have power to make such regulations, not inconsistent with the Constitution and By-Laws, as shall be necessary for the protection of the property of the Association, and for the preservation of good order and conduct of its affairs. It shall keep a record of its proceedings. It shall direct the manner and the purposes for which all funds of the Association shall be disbursed, but it shall have no power to make the Association liable for any debts amounting to more than the amount in the treasury at any one time not subject to prior liabilities. It shall have the power to change the time and place for the holding of any annual meeting of the Association when, in its judgment, it is necessary or proper to do so. It shall select some person to make an address at each annual meeting, and not exceeding three members of the Association to read papers.

IV. Order of Business

At each annual, stated or adjourned meeting of the Association, the order of business shall be as follows:

1. Reading of Minutes of preceding meeting.
2. Address of President.
3. Report of the Secretary and Treasurer.
4. Report of Executive Committee.
5. Election, if any, to Membership.
6. Report of Standing Committees.
7. Report of Special Committees.
8. Report of Miscellaneous Committees.
9. Miscellaneous Business.
10. Election of Delegates to American Bar Association.
11. Election of Officers.

The election of officers shall be held on the morning of the second day of the session.

The order of business may be changed by a vote of the majority of the members present.

No person in discussion shall occupy more than ten minutes at a time, nor be heard more than twice on the same subject.

The parliamentary rules and order contained in Robert's Rules of Order, except otherwise herein provided, shall govern all meetings of the Association.

V. Members Elect

Any person elected to membership who shall fail to pay his admission fee within one month after notice of his election shall be deemed to have declined to become a member.

VI. Committees

In pursuance of Article X of the Constitution, there shall be the following standing committees:

1. A Committee on Jurisprudence and Law Reform, who shall be charged with the duty of attention to all proposed changes in the law, and of recommending such as, in their opinion, may be entitled to favorable consideration of the Association.

2. A Committee on Judicial Administration and Remedial Procedure, who shall be charged with the duty of the observation of the workings of our judicial system, the collection of information, the entertaining and examination of projects for a change of reform in the system, and of recommending from time to time to the Association such action as they deem expedient.

3. A Committee on Legal Education and Admission to the Bar, who shall be charged with the duty of examining and reporting what change it is expedient to propose in the system and mode of legal education, and of admission to the practice of the profession in the State of Mississippi.

4. A Committee on Obituaries and Memorials, who shall present suitable resolutions in memory of members who have died during the preceding year.

5. A Committee on Grievances, who shall be charged with the hearing of all complaints which may be made in matters affecting the interests of the legal profession and the practice of law and the administration of justice, and to report same to this Association with such recommendations as they may deem advisable; and said committee shall, in behalf of the Association, institute and carry on such proceedings against offenders, and to such extent as the Association may order, the cost of the proceedings to be paid by the Treasurer on the warrant of the Executive Committee out of any moneys subject to be appropriated by them.

6. A Committee to consist of five members and known as the Committee on Professional Ethics, who shall be charged with the duty of answering in writing all questions relating to the ethics of the legal profession submitted to them in writing by any member of this Association, that, in their judgment, ought to be answered, reporting to the Association all questions submitted to and answered by them, together with their answers thereto. Any question answered by them, together with their answer thereto, may be made public by them at any time they see fit.

7. A Committee to be composed of five members, of which the President shall be ex-officio member, whose duty it shall be to appear before the Legislature at each session thereof, at the expense of this Association, there to present and urge upon the Legislature the desirability of enacting into law such suggestions.

VII. Appointment

Each of the standing committees shall consist of five members, and shall be appointed annually by the President of the Association, and shall continue in office until the annual meeting of the Association next after their appointment and until their successors are appointed, with power to adopt rules for their own government, not inconsistent with the character, Constitution or these By-Laws. Any standing committee of the Association may, by rule, provide that three successive absences from the meetings of the com-

mittee, unexcused, shall be deemed a resignation by the member so absent from his place upon the committee. Any standing committee of the Association may, by rule, impose upon its members a fine for non-attendance, and may provide for the disposition of the fines collected under such rules.

All reports of standing and special committees shall be filed with the Secretary, in writing, not less than thirty days before the annual meeting of the Association.

VIII. Charges Against Members

Whenever any complaint shall be preferred against a member of the Association for misconduct in his relations to this Association, the member or members preferring such complaint shall present it to the Committee on Grievances, in writing, and subscribed by him or them, plainly stating the matter complained of, with particulars of time, place and circumstances. The committee shall carefully examine and consider the same after giving reasonable notice to the party against whom the complaint is made of the time and place of hearing, and shall report to the Association at the next annual meeting, recommending what action it should take in the premises.

IX. Charges Against Lawyers and Judges

All complaints which may be preferred against lawyers or judges, affecting their professional or official conduct shall be inquired into and examined by the Committee on Grievances, on behalf of the Association, in such manner as may be authorized and prescribed by the laws of the State.

X. Nominations and Elections

Nominations of candidates to fill the respective offices, except the office Secretary and Treasurer, may be made at the time of election by any member, and as many candidates may be nominated for each office as members may wish to name, but all elections, whether to office or membership, must be by ballot. A majority of the votes cast shall be sufficient to elect to office, but five negative votes shall be sufficient to defeat an election to membership.

XI. Supplying Vacancies

All vacancies in an office or committee of this Association shall be filled by appointment of the President and the persons thus appointed shall hold for the unexpired term of his predecessor; but if a vacancy in the office of President, it shall be filled by the Association at its first stated meeting occurring more than ten days after the happening of such vacancy, and the person elected shall hold for the unexpired term of his predecessor.

XII. Annual Dues

Each member shall pay to the Secretary and Treasurer of the Association the sum of five dollars annual dues, and an admission fee of five dollars shall be paid to the Secretary and Treasurer as the member is elected. All annual dues shall be paid on or before the first day of March in each year, and any member failing to pay his annual dues by that time shall be in default, provided ten days' notice thereof shall have been given him by the Secretary and Treasurer; and thereupon the Executive Committee may, without further notice, cause the name of such member to be stricken from the roll for non-payment of dues, and his membership, and all rights in respect thereto will thereupon cease. A member who has been dropped from the roll for non-payment of dues may be restored to membership by the Executive Committee upon the payment of such back dues as the committee shall think equitable.

XIII. Amendment of By-Laws

These By-Laws may be amended at any stated, adjourned or annual meeting of the Association by a majority of those present.

XIV. Resignation of Officers and Members

Any officer may resign at any time upon settling his accounts with the Association. A member may resign at any time upon the payment of all dues to the Association, and from the date of the receipt by the Secretary and Treasurer of a notice of resignation, provided that all dues have been paid, the person giving such notice shall cease to be a member of the Association.

XV. Salary of Secretary and Treasurer

The annual salary of the Secretary and Treasurer shall be three hundred dollars, one-half of which shall be due on the first day of May, and the other half on the first day of November in each year, but may be paid earlier, or at earlier times if the Executive Committee shall, in writing, so direct; but this shall be in full of all compensation to him. No other officer of the Association shall receive any salary or compensation.

XVI. Special Meetings

If the President and Executive Committee shall determine that it is necessary for the Association to hold any other meeting during the year than the regular annual meeting, the same shall be held at such time and place as the President and Executive Committee may fix, upon twenty days' notice of such time and place, to be given by the Secretary and Treasurer by publication in a newspaper and notice thereof to each member; and the Secretary and Treasurer shall give this notice upon order of the President.

XVII. Honorary Members

All judges of the Supreme, Circuit and Chancery Courts of this State and the United States Judge for the two districts of this State are honorary members of this Association, and they are relieved from the payment of admission fees and dues.

XVIII. Certificate of Membership

A certificate of membership shall be issued to each member of this Association upon his election and payment of initiation fee, which certificate shall be signed by the President and Secretary.

XIX. Annual Meetings

The annual meeting of the Association shall be held on the first Wednesday after the last Monday of April of each year, and the ladies constituting part of the family of members are invited to attend all proceedings, including the banquet.

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